JK
6378
U6

EXCHANGE
MAY 14 1919

The Speaker of The House of Representatives in Iowa

UC-NRLF
B 4 499 017

BY

CYRIL B. UPHAM

SUBMITTED TO THE FACULTY OF THE GRADUATE COLLEGE OF THE STATE UNIVERSITY OF IOWA IN NINETEEN-EIGHTEEN IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

IOWA CITY IOWA
1919

EXCHANGE

SIGILLVM · VNIVERSITATIS · CALIFORNIENSIS
LVX
FIAT
MDCCCLXVIII
EX LIBRIS

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES IN IOWA

UNIV. OF CALIFORNIA

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES IN IOWA

[The following monograph on *The Speaker of the House of Representatives in Iowa* presents a phase of legislative history which is closely related to the researches published by The State Historical Society of Iowa as Volume III of the *Iowa Applied History Series* under the title of *Statute Law-making in Iowa*. It is hoped that a similar account of the President of the Senate may be prepared for publication in the near future.

A list of the Speakers of the House of Representatives, together with some information relative to the age, previous legislative experience, occupation, and party affiliations of each will be found on pages 47–51 below.— EDITOR.]

I

HISTORICAL TRADITION OF THE SPEAKERSHIP

The Speaker of the House of Representatives in Iowa is a direct descendant of the Speaker of the English House of Commons. Along with the Common Law, America inherited also the English system of parliamentary law. Thus it is to England that one must look for the origin of the speakership.

While the earlier English assemblies must have had a presiding officer of some kind, it was not until 1377 that the term "Speaker" was used. In that year Sir Thomas Hungerford was formally assigned the title and position of Speaker of the House of Commons.[1] At first the minion of the crown, the Speaker gradually advanced until in the eighteenth century he attained his present impartial character.

[1] The name of Speaker was given to him because his chief duty was to "speak" for the Commons.— Hansard's *Parliamentary History of England*, Vol. I, p. 351, in Follett's *The Speaker of the House of Representatives*, pp. 3, 127.

395107

In the American colonies, the status of the Speaker was based upon that of the seventeenth century Speaker of the House of Commons; but new conditions so altered and modified the position that there developed in America a very different parliamentary officer. Early colonial struggles between the representative assemblies and the Governors emphasized the importance of the principle that every deliberative assembly should be allowed the utmost freedom in the choice of its own presiding officer.

As a rule it was not because of his knowledge of parliamentary law or because of his ability as a presiding officer that the colonial Speaker was chosen: he was elevated to the office because he was an active leader of his party, with the ability to accomplish party purposes. He did not, by taking the chair, give up his rights as a representative: he spoke, voted, made motions, served on committees and exercised all the other prerogatives of a representative. His chief duties were the preservation of order and the enforcing of the rules. Essentially a political leader, he sometimes led movements in opposition to the government. Indeed, the position of the Speaker in colonial times has been compared to that of the Prime Minister of England, as contradistinguished from the Speaker of the House of Commons.[2]

Presidents of the Continental Congress and the Congress of the Confederation held the dual position of moderator and political leader. While the inherent powers of their office were not great, their influence as party leaders was far-reaching: they did not hesitate to make the position of parliamentary moderator subservient to that of political leader.

In 1787 the makers of the Constitution of the United

[2] Follett's *The Speaker of the House of Representatives*, Ch. I.

States conferred upon the House of Representatives the power of choosing its own Speaker.[3] It was undoubtedly their idea that he should be a political as well as parliamentary officer.

The original Territory of Wisconsin, established in 1836, was organized with a legislature of two houses. At the first meeting of the Territorial legislature the House of Representatives elected a Speaker to preside over their deliberations as a matter of course, although no provision for such an officer was made in the Organic Act. Two years later the same situation confronted the newly organized government of the Territory of Iowa: here, too, the House of Representatives organized by the election of a Speaker.

II

LEGAL STATUS OF THE SPEAKER IN IOWA

The Speaker of the House of Representatives in Iowa is not, in the strict sense, a constitutional officer, since the position is not definitely created nor election thereto specifically provided for in the Constitution of the State. In this particular the status of the Iowa Speaker is different from that of the Speaker at Washington. The national Constitution provides that "the house of representatives shall choose their speaker"; while the Iowa Constitution merely declares that "each house shall choose its own officers" without making any specific reference to a Speaker.[4]

[3] *Constitution of the United States,* Art. I, Sec. 2.

[4] *Constitution of the United States,* Art. I, Sec. 2; *Constitution of Iowa,* 1857, Art. III, Sec. 7. The States of the Union are equally divided in this respect. In just twenty-four of the forty-eight States is definite provision made in the organic law for the election of a Speaker of the House of Representatives. In twenty-three of the State constitutions provision is made that

Nor can the Speaker of the Iowa House be said to be a statutory officer. Indeed his statutory status is quite similar to his constitutional standing. He is recognized by the Code, but his office is not specifically created by law. Finally, there is no definite provision for this office in the rules of the House itself. Apparently the Speaker in Iowa owes his position to precedent alone.

When the First Legislative Assembly of the Territory of Iowa met in Burlington on the twelfth day of November, 1838, precedent alone governed the method of its organization. The Organic Act empowered the Governor to appoint a day and place for its meeting; but that instrument was silent on the subject of its organization. Indeed, the Organic Act contained no mention whatever of a presiding officer in either house. At the same time it must have been generally understood that the customary principles of deliberative assemblies were to govern, for both the Council and the House of Representatives organized in the usual manner without loss of time.[5]

The House of the First Legislative Assembly made an

the House of Representatives "shall choose its own officers" in this or similar phrasing. In ten of these twenty-three State constitutions — and in this group Iowa is included — the Speaker is, however, recognized. Characteristic provisions of these constitutions which recognize the speakership without making definite provision for it are those making it the duty of the Speaker to sign all bills passed by the legislature; to canvass the official vote for Governor; and to act as Governor in case of the inability of that official and of the Lieutenant Governor.

In Massachusetts and Tennessee the Senate has an elective presiding officer. In Massachusetts he is called President and in Tennessee Speaker. This was true in Iowa until 1857, and in the Iowa upper house as in Massachusetts he was called President instead of Speaker. In Idaho there is a penalty fixed upon the members of the House if they fail to perfect their organization within four days after a quorum is in attendance. Kansas alone makes no mention in any way of a Speaker for the House of Representatives. Thus, in practically every State, the Speaker is either provided or recognized in the organic law; and he is in universal evidence throughout the Union.

[5] *Organic Act,* Sec. 4; see *Legislative Journals* for 1838–1839.

attempt to provide for a Speaker in the adoption of the following rule: "The House of Representatives shall choose by ballot one of their own number to occupy the Chair. He shall be styled Speaker of the House of Representatives."[6] Obviously this rule had nothing to do with the election of the Speaker in the session by which it was adopted, since its adoption followed the installation of that officer by several days. Nor was it operative at elections in later sessions. The Second Legislative Assembly did not (as is the practice to-day) adopt the rules of the preceding Assembly either before or after the permanent organization. And so the Speaker of this session, as at the previous session, was elected under no rules but those of general parliamentary law.

In the Second Legislative Assembly a committee was appointed "to prepare standing rules for the House".[7] This committee, it is evident, made rather extensive use of the rules of the national House of Representatives. Thus Rule I, as reported by them and as adopted by the Assembly, is almost identical with Section I of Rule I of the House at Washington — a rule which has been in force in that body since 1789, when it was adopted, and the form of which has not been changed since 1824. While this rule does not make provision for the election of a Speaker, it assumes that such an officer is to be elected.[8]

Rules I to X as adopted by the First Legislative Assembly were grouped under the heading, "TOUCHING THE DUTY OF THE SPEAKER", and Rule I read: "He [the Speaker] shall take the chair every day precisely at the hour to which the House shall have adjourned on the preceding day; shall

[6] *House Rules*, 1838–1839, Rule 1.

[7] *House Journal*, 1839–1840, p. 6.

[8] *House Manual and Digest*, 3rd Session, 63rd Congress, p. 269-n.

immediately call the members to order, and on the appearance of a quorum, shall cause the journal of the preceding day to be read." The wording of this rule has been preserved almost without change from that time to the present. Other references to the Speaker are found throughout the Rules of the House as well as in the Joint Rules.[9]

The Second Legislative Assembly also recognized the need for some statutory provision for the presiding officers of the two houses by the enactment of a statute which provided that "after the decision of all cases of contested elections, the Council shall proceed to elect a president", and "the House shall proceed to elect a speaker".[10] Under this statute the Speaker became a statutory officer. But these specific provisions of law were not retained in the *Code of 1851,* which provided simply that "when the above committee [Credentials] has reported, those who are reported as holding certificates of election from the proper authority shall proceed to the permanent organization of their respective houses by the election of officers."[11] Besides this provision, which has survived down to the present day, the *Code of 1897* also fixes the term of the Speaker and makes provision that he shall act as presiding officer in joint conventions of the House and Senate in case the President of the Senate is absent. Herein, too, is fixed the compensation of the Speaker's clerk and the Speaker's page.[12]

Undoubtedly the framers of both the Constitution of

[9] *House Rules,* 1839–1840, Rule 1, 1917, Rule 1.

[10] *Laws of Iowa,* 1839–1840, Ch. 66, Secs. 5, 10, p. 39.

[11] *Code of 1851,* Ch. 2, Sec. 8.

[12] *Code of 1897,* Ch. 2, Secs. 9, 13, 17, 23.

The President *pro tempore* of the Senate has in recent years presided as President of the Joint Convention for the inaugural of the Governor and Lieutenant Governor.

1846 and of the Constitution of 1857 intended that there should be a Speaker in the lower house of the General Assembly, since they imposed duties upon him. Thus the present Constitution provides that "every bill having passed both houses, shall be signed by the Speaker and President of their respective houses"; that "the returns of every election for Governor, and Lieutenant Governor, shall be sealed up and transmitted to the seat of government of the State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly"; and that "if the President of the Senate . . . . shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives."[13]

Thus it is seen that, although the position of Speaker of the House of Representatives in Iowa was not created by constitutional provision as was the office of Speaker of the national House, he is nevertheless given distinct recognition both in the Constitution and in the statute laws of the State.

III

DETERMINING FACTORS IN THE ELECTION OF THE SPEAKER IN IOWA

The Speaker of the House of Representatives in Iowa is an important part of the machinery of State government. His real power is as great as his legal status is indefinite.

[13] *Constitution of Iowa*, 1857, Art. III, Sec. 15, Art. IV, Secs. 3, 19.— For corresponding provisions in the Constitution of 1846, see Art. IV, Sec. 16, and Art. V, Secs. 4, 19.

The Speaker formally complies with the requirement that he "open and publish" the returns of the election for Governor and Lieutenant Governor: he breaks the seal.

Through the privileges of committee appointments and recognition on the floor his influence is indeed tremendous. The office that is "considered second only to that of governor of the state" and really is "the most important in the General Assembly" should be given more general recognition.[14]

To gain a proper conception of the parliamentary and political status of the Speaker, attention must be given to the process by which he obtains his office. In the choice of its Speaker, the Iowa House is subject to no legal restriction; but a parliamentary custom which has its roots in State and national precedent requires that he shall be a member of the House itself. Thus the only essential qualifications are those required of all members of the House of Representatives: the age of twenty-one years, citizenship, and residence within the State.[15]

Various considerations enter into the choice of a Speaker. Some are selected because of their peculiar fitness for the position, or because of their personal popularity; others because of the circumstances of the situation; and still others because of their political opinions. While it is true that personality, knowledge of parliamentary law, and previous legislative experience are taken into consideration, probably the dominant determinant is the political slant of the candidate.

While sectional rivalry is not so pronounced in the General Assembly of Iowa as in the Congress of the United

[14] *The Register and Leader* (Des Moines), April 1, 1907; *Muscatine Daily Journal,* January 9, 1864; *House Journal,* 1907, p. 4. The Speaker of the national House is recognized as "the second political figure in the United States" and has been characterized as "the most interesting and important legislative officer in the American Commonwealth, if not in the world."—Bryce's *American Commonwealth* (1910 Edition), Vol. I, p. 142; Woodburn's *The American Republic,* p. 264.

[15] *Constitution of Iowa,* 1857, Art. III, Sec. 4.

States, it has nevertheless played a part in the election of Speakers.[16] Thus sectional interests were decisive in the election of the Speaker in the First Legislative Assembly. The membership of the House at that session was principally from the southern half of the State. Fifteen of the twenty-six members were from the four southern counties of Lee, Van Buren, Henry, and Des Moines; while four more were from Muscatine, Louisa, and Slaughter (now Washington).[17] William H. Wallace, of Henry County, was chosen Speaker. Party politics seems not to have been a determining factor in this election: both houses were Democratic, but each elected a Whig for presiding officer. The sectional factor was of more or less importance throughout the Territorial period; and while it has exerted some influence since then, it has seldom been of prime importance. There may be some significance in the fact that the first two Speakers after the removal of the capital to Des Moines — Stephen B. Shelledy of Jasper County, in the Seventh General Assembly, and John Edwards of Lucas County, in the Eighth General Assembly — were the first Speakers chosen from a county which was any considerable distance from the Mississippi River. The Speaker of the Ninth General Assembly was Rush Clark of Iowa City, the very place from which the capital had been removed.

The personal popularity of the candidate himself is

[16] A map of Iowa showing the distribution of Speakers by counties shows the great majority of them in the eastern half of the State, with the whole of northwestern Iowa (twenty-nine counties) represented by but one Speaker — Cunningham of Buena Vista in the Thirty-fifth General Assembly. Polk and Woodbury, the counties in which are situated the two largest cities of the State — one of them the capital — have neither one succeeded in securing the speakership. The city of Dubuque has not furnished a Speaker since Iowa became a State, and Davenport not since the very early State period, yet Waterloo has furnished three of Iowa's Speakers.

[17] Reid's *Thomas Cox*, p. 78; *House Journal*, 1838–1839, p. 14.

oftentimes a strong factor in the selection of a Speaker. Always an important consideration, it is occasionally the deciding influence in the choice of a particular man. Personality loomed large in the election of Edward Johnstone in the Second Legislative Assembly. He was easily the most commanding figure of the session. Over six feet tall, "he had a face evidencing great culture, ever bright and intelligent, a head in keeping with his stalwart form and a manner dignified, courtly and most impressive." Known as a successful young lawyer, he had served as a clerk in the Wisconsin legislature in 1837. "To his surprise he had hardly stretched his long legs under the primitive desk in the Assembly's first capital — before his future colleagues, taking him at his face-value, elected him speaker of the House!"[18]

Thomas Cox of Jackson County, Speaker of the Third Legislative Assembly, also owed his election partly to his popular standing among his fellow members — as well as to his previous legislative experience. In Illinois he had been State Senator from 1818 to 1820; while in the Territory of Iowa he had received votes for Speaker at both of the previous sessions as well as at the extra session. Warner Lewis, who was not a fluent talker, was "nevertheless always listened to with attention, for his friendships were so sincere, his amiability so admired, his sincerity so admitted that he always commanded respect."[19]

"Honest John" Edwards, of Lucas County, Speaker of the Eighth General Assembly, may be included among those chosen because of personal charm. He was characterized as "so genial and popular in his manners, so well-informed in parliamentary law, and so well and favorably known

[18] *Iowa Historical Record*, Vol. IX, p. 490; Brigham's *Iowa, Its History and Its Foremost Citizens*, Vol. I, p. 125.

[19] *The Annals of Iowa* (Third Series), Vol. XII, p. 118.

over the State, that he had no opposition in the party caucus." There was a "fighting minority" in this session and Edwards was chosen, so it was claimed, because "it was a matter of much moment to have a presiding officer who united a thorough knowledge of parliamentary rules, with energy of character to enforce them, on all occasions." Undoubtedly Speaker Edwards was well acquainted with parliamentary law; but when it came to enforcing the rules and controlling a "filibuster" session, he was a failure — for which ill health may have been responsible.[20]

Rush Clark of Iowa City was very popular among his contemporaries in the General Assembly, and probably not a few of the votes cast for him as Speaker of the Ninth General Assembly in 1862 were given because of personal admiration. Of Jacob Butler, Speaker of the House in 1864, it was said: "His eminent fitness for the position, more than any efforts of his friends or himself, put him in the front rank at the very first talk about the organization of the House, and the more his merits were canvassed the stronger became the conviction that he should be placed in this responsible and honorable position".[21] But it was left for James Wilson in 1872 to be "the man in whose hand the gavel of the House has for the first time in the history of the State been placed by the cordial consent of all the members of his own party".[22] John Y. Stone, of Mills County, Speaker of the Seventeenth General Assembly, received ninety-four votes for Speaker out of ninety-nine votes cast. He received "the [hitherto] unequalled Iowa compliment given him by his own party in nominating him as Speaker by acclamation" and the "nearly unanimous

[20] *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1886, p. 22; *Daily Iowa State Register* (Des Moines), January 18, 1860.

[21] *Muscatine Daily Journal,* January 9, 1864.

[22] *Iowa State Weekly Register* (Des Moines), January 10, 1872.

vote of the Democratic members for his election."[23] Lore Alford was also nominated by acclamation of his party as Speaker of the Eighteenth General Assembly.[24]

The Speaker of the Twenty-first General Assembly, Captain Albert Head, was referred to as "its best man", although his election turned upon a definite political issue. W. O. Mitchell, chosen by the Twenty-fourth General Assembly, was a man who stood high in the estimates of his fellows. "An old soldier, but still a young man; a lawyer, but closely identified with the farming interests of the state; a natural leader, without imperiousness, he is well qualified for the position." The leadership of the House in 1902 was given to Willard L. Eaton of Mitchell County largely because of the splendid record he had made in the Twenty-eighth General Assembly of 1900.[25]

The election of Arch W. McFarlane as Speaker in 1919 was a tribute to his genuine ability and his work in the previous session. In 1917 he had served as Speaker *pro tempore,* and exerted his influence for progressive legislation. The return to the House in 1919 of the majority of the "progressive" faction of 1917 assured him generous support. There are few instances on record of the Speaker *pro tempore* of one session being Speaker at a later session. N. E. Kendall and H. W. Byers were promoted in this way although Kendall was not elected Speaker until several years after he served as Speaker *pro tempore.*

George W. Clarke, of Dallas County, one of the few men who have served as Speaker during two regular sessions of the House, was slated for the position long before the ses-

[23] *Iowa State Weekly Register* (Des Moines), January 18, 1878; *House Journal,* 1878, p. 7.

[24] *Iowa State Weekly Register* (Des Moines), January 16, 1880.

[25] *Iowa City Daily Republican,* January 14, 1886; *The Iowa State Register* (Weekly, Des Moines), January 15, 1892.

sion of the Thirtieth General Assembly opened. A Des Moines newspaper, at the opening of the session, said: "There never has been any doubt that George W. Clarke of Adel will be elected speaker of the house for the coming session." He merited the confidence of his colleagues, for at the end of his first session as Speaker it was said that "no word of criticism ever has been heard of him", and he was said to be "the best speaker the house has had for fifteen years." Perhaps the reason for his second election as Speaker was due to his outstanding success, coupled with the unusual circumstance that the membership of the Thirty-first General Assembly was exactly the same as that of the Thirtieth, in consequence of the adoption of the biennial election amendment in 1904.[26]

Military prestige has also played a part in some of the elections to the speakership. Thomas Cox served in the War of 1812 and in the Black Hawk War. General Warner Lewis had also seen service in the Black Hawk War. James M. Morgan gained his title of "General" by "gallant and meritorious service in the Boundary war with Missouri." General Jesse B. Browne had seen military service. Captain Albert Head, Colonel Shelledy, W. O. Mitchell, and others were old soldiers.[27] This factor was decisive in the election of Speaker in the Eleventh General Assembly in 1866. There were two leading candidates — Ben Darwin and Ed Wright. "At first the honors seemed tending toward the great lawyer [Darwin], but when it was discovered that forty-three of the one hundred members had recently doffed the blue uniform, there was a sudden

[26] *The Register and Leader* (Des Moines), January 8, April 12, 1904, January 8, 1906.

[27] Reid's *Thomas Cox,* Chs. II, V, and VI; *Iowa Historical Record,* Vol. IV, p. 142; Brigham's *Iowa, Its History and Its Foremost Citizens,* Vol. I, p. 166; *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1894, p. 65, 1907, p. 42.

rallying to the standard of the tall form of the gallant General." His military record proved no advantage to W. P. Wolf, however, in his contest with G. R. Struble for the speakership in the Nineteenth General Assembly.

The causes which have determined the election of Speaker have varied from session to session. John Russell was probably given many votes because of his unquestioned superiority in parliamentary law and his efforts to secure more perfect rules in the House. Ed Wright, too, was "a perfect cyclopedia of information upon parliamentary law", and was often called on by Speakers to straighten out parliamentary tangles. More lawyers have served as Speaker than any other one class; but there is a feeling in Iowa that the farmers should receive their share of speakership honors.[28] James Wilson is remembered as the successful "farmer speaker" of Iowa. The election of Albert Head in 1886 was spoken of as "a victory for the farmer or anti-monopoly element of the Republican party over the railroad interests"—although Head himself was not a farmer. W. O. Mitchell was hailed as "the first farmer speaker since the Hon. James Wilson graced the speaker's chair some twenty years ago". Milton B. Pitt, Speaker of the House in 1917, was declared to have "no other business than that of farming." Arch W. McFarlane was alleged to be an "open and avowed enemy of the farmers"—an allegation which is unimportant except that it indicates the recognition of a farmer interest in the election.[29]

[28] This attitude is revealed in the following newspaper paragraph: "It looks as if handicraft was faring pretty well in Iowa just now. A harness-maker is Senator-elect, a shoemaker is Speaker-elect, and a jeweler has just been inaugurated Governor. The farmers should see to this."—*Iowa State Weekly Register* (Des Moines), January 20, 1882.

[29] *Pioneer Lawmakers' Association of Iowa, Proceedings*, 1886, p. 22, 1894, p. 65; *Iowa City Daily Republican*, January 14, 1886; *Iowa Official Register*, 1886, p. 18; *The Iowa State Register* (Weekly, Des Moines), January 15, 1892;

The election of J. H. Funk as Speaker of the Twenty-seventh General Assembly was spoken of as "first of all a recognition of his services in the interests of the tax payers." Willard L. Eaton was unsuccessful in his fight for the office in the Twenty-eighth General Assembly because "he courageously based his whole campaign upon the organization of the house by the representatives who favored the nomination of Hon. A. B. Cummins for senator. It is conceded that Mr. Eaton would have been nominated for speaker if he had not made the senatorship the sole issue". Paul E. Stillman said in 1911: "My candidacy for the speakership has been based squarely upon the principle that no committee chairmanship or other favors within the gift of the chair should be promised or in any way discounted or pledged in advance . . . . and if I am elected, it will be because this idea has found favor with the membership of the house." After the election of a Speaker in 1917, one of the prominent members of the House declared: "The election of Mr. Pitt for speaker may be regarded as an indication of the strength of sentiment for road law revision in the house".[30]

The Des Moines Register, January 7, 1917, January 11, 1919. Mitchell was also the first native Iowan to be Speaker of the Iowa House.

[30] *The Iowa State Register* (Weekly, Des Moines), January 14, 1898, January 12, 1900; *The Register and Leader* (Des Moines), January 5, 1911; *The Des Moines Register*, January 10, 1917.

The press of the State, and especially of the city of Des Moines, takes an active interest in the election of Speaker. Usually they do not openly take sides in the controversy in their pages. But in the campaign of 1900 *The Iowa State Register* was strong in its support of Eaton, who was beaten by Bowen, and criticised severely the "political deals" of Mr. J. E. Blythe, the opposition leader.— *The Iowa State Register* (Weekly, Des Moines), January 12, 1900.

Even the foreign language newspapers of the State are interested in the election of Speaker. While the only comment one of them made in 1884, when the election resulted in a triangular vote of fifty, forty-one, and seven, was "ziemlich knapp"; the same paper said four years later: "Wer Sprecher des Hauses werden wird ist schwer zu sagen, an Kandidaten fehlt es aber nicht.

One element of not inconsiderable importance in the choice of Speaker is the anxious interest of individual members and of business forces. Private benefit or public recognition may come to a member through the election of some candidate he favors; and favorable legislation may result from the support of a corporation. In a close struggle, hard work and substantial inducements may swing the election. The candidate himself has opportunity to gain votes by preëlection promises. Often a formidable opponent may be won over by the promise of an important chairmanship. Governor Gear was criticised in the newspapers in 1880 for engaging in the contest over the speakership with the "long-headed view of advancing his chances of strength for the United States Senate in the future." The Speaker of the Thirty-seventh General Assembly doubtless owed his election in part to the active support of Governor Harding. In the bitter contest within the Republican party for the speakership of the Twenty-eighth General Assembly, charges of corporation influence were made, and the Bowen men were openly called "trust organs". During the contest for the position of Speaker in the 1915 session "charges that corporation influence, the liquor interests and various other so-called insidious influences were at work for this candidate or that were passed back and forth but did not become serious issues. The really prominent and determining factor was the personal influence which workers on both sides were exerting upon their friends."[31] Tardy charges of corporation influence were circulated in

Hoffentlich wird es nicht ein rabiater Fanatiker sein".— *Iowa Staats-Anzeiger* (Des Moines), January 18, 1884, January 5, 1888.

[31] *Iowa State Weekly Register* (Des Moines), January 16, 1880; *The Iowa State Register* (Weekly, Des Moines), January 12, 1900; *The Register and Leader* (Des Moines), January 9, 1915. In 1896 the Iowa Federation of Building and Loan Associations was active in support of H. W. Byers for Speaker.— *House Journal*, 1897, p. 511.

the 1919 campaign; but little heed seems to have been given them.

The qualities which should be possessed by a Speaker were summed up by Representative Teter, of Marion, in nominating N. E. Kendall for Speaker of the House of the Thirty-second General Assembly. He should be "broad enough to forget the while that he is a partisan. He should be liberal; yet, consistent, conscientious and fearless. He should be slow of decision; yet, steadfast in purpose and devoted to the faith of conviction. He should be conservative; yet, progressive in the leadership of men and affairs." Representative Rube McFerren in placing Milton B. Pitt before the session of 1917 declared that the Speaker should have ability, wisdom, honor, courage, and patriotism.[32]

But after all the office is primarily political and "the choice of a Speaker depends less upon his qualities as a moderator, his experience as a public man, and his personal character, than upon the complex interplay of political factions striving for mastery in their own party."[33] For it must be remembered that as a rule in Iowa one party or the other has been supreme. In the early days the Democrats had sufficient strength to enable them to select their own Speaker. At some few sessions there has been a rather even balance between parties. Of late years, however, the Republican party has been so much superior in numbers that a nomination by the party caucus has virtually meant an election by the House. Indeed, from the session of 1856–1857 down to the present every Speaker but one — John T. Hamilton in the Twenty-third General Assembly — has been a Republican. There is, of course, always some danger of one faction of the majority party uniting with the mi-

[32] *House Journal*, 1907, p. 5, 1917, p. 7.

[33] Follett's *The Speaker of the House of Representatives*, p. 33.

nority party to elect a Speaker. Such a course is often predicted, and one faction may use it as a threat to secure recognition. It seldom happens, however, that such a coalition occurs. In the organization of the House of the First General Assembly the members from Lee County held the balance of power. By a large non-partisan vote three Whig and two Democratic representatives had been elected from that county, the "regular" Democratic candidates being defeated. To secure the solid vote of this delegation in the election of United States Senators and Supreme Court Judges, the Democratic House elected Jesse B. Browne of Lee County, a Whig, as its Speaker. In 1874 the Independents were so divided between the two parties as to create a deadlock. The election of Speaker Pitt in 1917 was not only partisan, but factional.[34]

IV

THE CHOICE OF SPEAKER IN THE PARTY CAUCUS

The election of a Speaker by the House in legislative session has become little more than a form: the real election occurs in the caucus of the majority party before the session opens. Thus the House does not, strictly speaking, choose its Speaker: the majority party dictates who shall preside.

The party caucus has existed in Iowa practically from the organization of the Territory. True, it played no part in the election of William H. Wallace as Speaker of the First Legislative Assembly; for in that session the vote was purely sectional and distinctly non-partisan. But the election at the following session was undoubtedly the result of

[34] *Iowa City Standard,* November 11, 25, 1846; *The Annals of Iowa* (First Series), Vol. X, p. 203; *Iowa State Weekly Register* (Des Moines), January 16, 1874.

political forethought, although the caucus was probably more or less informal and had nothing of the perfection of organization which characterizes it to-day. Unfortunately the newspapers of this period gave little comment on the elections in the legislature — being chiefly concerned with the disposition of the public printing. Moreover, the party caucus of this period was a secret affair: newspaper reporters were not freely admitted as they are to-day. It appears, however, that some interest was taken in the election of Speaker before the session opened; and it is a tribute to the power of the Speaker that we find an editor canvassing for the election of a particular candidate in order to secure the public printing. The following statement appeared in one of the Burlington papers during the session of the Second Legislative Assembly: "A few weeks since the editor of the Gazette was charged in this paper with having written to members of the Legislature, in order to influence them to vote for the present incumbent as speaker. It was done through the representations of those who we supposed knew all about the matter." The editor admitted that he knew nothing personally of the matter except in one instance. It is significant, however, that later in the session the *Hawkeye* was awarded the printing of the *House Journal* — with two members, one of whom was Speaker Johnstone, voting in the negative.[35]

It is a far cry from the caucus (if it may be called such) of that session to the highly developed and efficiently responsible machine of the present. To-day it is the usual thing for letters to be written urging members to vote for certain candidates for Speaker, and attempting to secure their pledges so to do. In 1917 at least one of the candidates carried on an extensive campaign by mail and secured

[35] *The Annals of Iowa* (First Series), Vol. III, p. 449; *Hawkeye and Iowa Patriot* (Burlington), November 28, 1839, January 16, 1840.

pledges of support from all parts of the State. Much personal campaigning is done by the friends of the various candidates weeks before the session opens, and the ten days previous to the session are busy ones at the Savery Hotel, which has been political headquarters for years — where the lobby and parlors are full of political workers whipping members into line for the party caucus. The appearance of this body of men convinces one that the Iowa House may be described as has been the national House: "An aggregation of vigorous elements, having different objects, antagonistic notions, and selfish interests, centered about indefinite party policies and moved by personal, political, and sometimes patriotic purposes."[36]

A bona fide caucus, organized for the purpose of selecting officers for the two houses of the Legislative Assembly, appeared in 1841.[37] At that session the Democrats held a "midnight caucus" (which adjourned before ten o'clock) "for the purpose of agreeing upon candidates to be supported by them for the offices of either house".[38] Two years later the Whigs had no regular candidate and it was left to the House to decide who should be Speaker. The election

[36] *The Des Moines Register,* January 2, 1917; Alexander's *History and Procedure of the House of Representatives,* p. 27.

[37] Just when the plan of the party members of both houses meeting in one caucus was abandoned for the present method of the members of each House holding their own caucus is not certain; but the latter plan has been followed for some time — at least since 1860.— *Daily Iowa State Register* (Des Moines), January 10, 1860.

[38] *Iowa Capitol Reporter* (Iowa City), December 18, 1841. Of the effectiveness of this first party caucus a recent writer says: "That they were eminently successful in electing their slate is evident from the stinging condemnation by the Whigs". The Democrats, upon being criticised, called their action a "wise and prudent one" and claimed that "the custom of thus meeting and agreeing upon a course of conduct, is one which prevails in nearly if not quite every State in the Union; and with 'Whigs' no less than with Democrats."— *Statute Law-making in Iowa* in the *Iowa Applied History Series,* Vol. III, p. 32; *Iowa Capitol Reporter* (Iowa City), December 18, 1841.

turned wholly upon local principles. But from that time to the present, the party caucus has been a regular feature of the legislative session.[39]

The first newspaper publicity of the party caucus for the selection of legislative officers appeared in 1860. Up to that time there had been no newspaper accounts of the transactions of this interesting body. Indeed, although caucuses were regularly held, the newspapers gave no substantial report of their proceedings until 1874. During the contest of that year rather full accounts were given of the daily caucuses which were held.[40] Since 1890 full accounts of the party caucus have been given, with the votes on the separate ballots. This rule has been violated but once, namely, in 1900 when "newspaper men were excluded from the caucus for the first time in Iowa Republican history".[41]

Candidates for the speakership announce their candidacy months before the session of the General Assembly opens. Indeed, during each session there is some talk of who will be the Speaker at the next session. Sometimes the situation is fairly well settled two years in advance; so that occasionally a candidate will announce himself at the close

[39] *Iowa Capitol Reporter* (Iowa City), December 9, 1843.

That caucus methods were rather well known in Iowa at an early date is evidenced by the fact that when the Grand Lodge of Iowa, A. F. and A. M. met in Iowa City in January, 1846, while the legislature was in session "the Masonic members of the legislature held a caucus and made up what in later days is called a 'Slate', or list of officers and elected them over those upon whom the choice of the members would otherwise have fallen"; thereby electing their own Speaker — McCleary — Grand Master.— Morcombe's *History of Grand Lodge of Iowa, A. F. and A. M.*, Vol. I, p. 260.

[40] There was agitation at this time for a joint caucus of the two parties, but nothing came of it.— *Iowa State Weekly Register* (Des Moines), January 23, 1874.

[41] *Daily Iowa State Register* (Des Moines), January 10, 1860; *Muscatine Daily Journal*, January 9, 1864; *Iowa State Weekly Register* (Des Moines), January 15, 1868; *The Iowa State Register* (Weekly, Des Moines), January 12, 1900.

of a session. In 1907 it was known that Speaker Kendall did not expect to return in 1909, and so toward the end of the session there was considerable discussion of who would be his successor. Several names were considered but no candidacies were announced; indeed no mention was made of the man who in fact became Speaker two years later. At the close of the Thirty-third General Assembly Representative Klay of Sioux County "announced his candidacy for the speakership of the Thirty-fourth and asked for the support of his friends." Fremont E. Shortess of Traer was a candidate for Speaker of the Thirty-seventh General Assembly before the primary election of June, 1916, and there was at least one other man in the field ahead of him.[42]

The candidates usually appear in Des Moines several weeks before the opening of the session to make arrangements for their campaign. Shortess arrived in Des Moines on the thirtieth of December, 1916, and was closely followed by the other candidates. Prior to 1919 each candidate had his headquarters in the Savery Hotel. In 1917 Shortess, Pitt, Elwood, and Neff each occupied one or two parlors for headquarters at the Savery during the week of the campaign. Each candidate gathers around himself the supporters of his candidacy and the fight begins. In 1917 M. B. Pitt had, by January 4th "his pledged backers . . . . industriously engaged in adding to their number from the straggling arrivals." Mr. Pitt also "enlisted the services of Almor Stern, a political worker of many years experience in Harrison county and a fellow townsman of the candidates, and E. L. Hogue of Monona county is also initiating the new members to the Pitt creed."[43] In 1919

[42] *The Register and Leader* (Des Moines), April 1, 1907, April 10, 1909; *The Des Moines Register,* January 1, 2, 1917.

[43] *The Des Moines Register,* January 1, 4, 1917.

That not a little interest is taken in the contest in the caucus, witness the

Judge W. S. Withrow of Henry County, accompanied by a delegation of prominent Henry County men, was in Des Moines during campaign week, actively working in behalf of F. S. Finley for Speaker. And after the election, Speaker McFarlane credited his "uncommonly successful campaign" largely to former Congressman Charles E. Pickett, of Waterloo, who had been his campaign manager. Pickett was instrumental in the election of W. I. Atkinson in 1915, also.

Campaign week is filled with political activities. Members cultivate candidates with an eye to future places on committees. Frequently the candidates have offered committee chairmanships in exchange for support, although sometimes they have announced that no such promises would be made. Stillman denied that he had made any pre-caucus promises. During this week combinations among candidates are sometimes made. The weaker candidacies are withdrawn, leaving but one or two candidates in the field.[44]

The number of candidates varies. In 1909 eleven members came forward as candidates — Darrah, Feely, Hackler, Harding, Larrabee, Lee, Meredith, Marston, Sullivan, Stillman, and White — and ten of them received votes in the caucus. In the 1917 caucus only four men received votes for Speaker — Pitt, Elwood, Shortess, and Neff. Sometimes the contest is between only two or three members. There

following: "The speakership campaign has proved an attraction that has drawn to Des Moines within the last few days many former Iowa statesmen, several editors, and many politicians."— *The Register and Leader* (Des Moines), January 9, 1915.

[44] *The Register and Leader* (Des Moines), January 5, 1911. In the caucus preliminaries of 1894, one candidate withdrew; and told Stone that "he did not wish to ask anything for himself, but made a strong recommendation for two of his friends who had stood by him".— *The Iowa State Register* (Daily, Des Moines), January 6, 1894.

were three in 1915; but two were left out of seven in 1913; and only one candidate remained in the Republican caucus in 1919. Sometimes a man will secure promise of considerable support on the second ballot; and unless a selection is made on the first ballot, he stands a good chance of being chosen. McFarlane claimed he would win on the second ballot in 1917, but Pitt was elected on the first.[45]

The Republican caucus is customarily held on the Saturday morning preceding the opening of the session on Monday. In earlier days the caucuses of both parties were held following the adjournment of the first day's session, either in the afternoon or evening. The Democrats still hold their caucus on Monday, the first day of the session, but in the morning, before the session opens. The Republicans departed from the custom of a Monday night caucus in 1896, when it was held on the Saturday night preceding the session, in the chambers of the State House. In 1898 it was proposed to have the meeting on Friday night, so the members could go home over Sunday. "The customary method of settling the time is to circulate a call and have the participants sign it. The wishes of the candidates usually determine the time." The caucus is usually held in the morning. In 1915 it met in the Savery Hotel at ten A. M.; and in 1917 the meeting opened at eleven A. M. The Savery Hotel has been the regular meeting place for the caucus.[46] In 1919 caucus headquarters were changed to the

[45] *The Register and Leader* (Des Moines), January 4, 10, 1909, January 12, 1913, January 10, 1915; *The Des Moines Register,* January 5, 7, 1917.

[46] *Iowa State Weekly Register* (Des Moines), January 15, 1868; *The Register and Leader* (Des Moines), January 14, 1907, January 11, 1913, January 5, 9, 1915; *The Des Moines Register,* January 6, 1917; *The Iowa State Register* (Weekly, Des Moines), January 7, 1898. In 1906 it was on Saturday, in 1907 on Friday, and in 1915 and 1917 on Saturday.— *The Register and Leader* (Des Moines), January 12, 1907, January 9, 1915; *The Des Moines Register,* January 6, 1917.

Chamberlain Hotel, due to the fact that the Savery was being re-built.

The call for the caucus at which the Speaker is elected is the official means by which the body is assembled. It is circulated among the members by some person prominent in legislative circles, and is usually signed by all participants.[47] The following "call", used in the Thirtieth General Assembly, which met in 1904, is typical:

> The members of the house of representatives will meet in caucus at the club room of the Savery hotel on Friday afternoon, January 8, 1904, at 2:30 o'clock, for the purpose of nominating candidates for positions to be filled in the house organization and for the transaction of such other business as may properly be considered.[48]

In 1911 the standpatters refused at first to sign the call because they objected to the inclusion of the clause: "and to transact any other business that may come before [the] caucus." They especially objected to the naming of a session caucus committee by the organization caucus. They did not want the question of organizing the House tangled with the election of United States Senator. Rather than agree to a senatorial caucus, it was said that they would bolt the party and help elect a Democratic Speaker. Indeed, it was rumored that the Democrats would elect a standpat Speaker in return for a committee on committees. The progressives yielded on the point of naming the caucus committee for the session. In 1913 one standpat member — Mr. Stipe — refused to sign the call because of the same alleged objectionable feature, but later, probably on the advice of Governor Carroll, he signed it. In 1915 seventy-five Republican

[47] *The Register and Leader* (Des Moines), January 11, 1913, January 5, 1915. In 1911 the call was circulated by C. R. Benedict, Chief Clerk of the House during the preceding session.— *The Register and Leader* (Des Moines), January 7, 1911.

[48] *The Register and Leader* (Des Moines), January 8, 1904. It was understood that this applied only to Republican members.

members of the House were eligible to sit in the caucus. Representative Ball, an independent, sought participation in the caucus, but the members of the Atkinson faction were in the majority and kept him out. It was known that he was a Barry supporter.[49]

The arrangements for the caucus and its management are usually attended to by the Chief Clerk of the House of the preceding session. He, at the direction of the candidates for Speaker, chooses some member to act as chairman of the organization caucus. Thus in 1915, T. F. Griffin of Woodbury County, was "selected by former Chief Clerk A. C. Gustafson, at the direction of the three candidates involved, as chairman." Griffin served again in 1917 and 1919. His own vote had not been pledged to any of the candidates. In 1907 J. H. Lowrey of Calhoun County acted as caucus chairman. In 1913, H. A. Huff, a candidate who had withdrawn, was chairman. He had refused to swing his support or name a preference. In 1909 the only third term member — Representative Welden of Hardin County — was made chairman. Two secretaries are chosen from the membership of the caucus.[50]

The selection of a candidate for Speaker is the most important duty of the House caucus. But the other officers, the Speaker *pro tempore,* and the member to call the House to order at the opening of the session are chosen by the same body — although it is understood that the senior member from Polk County will be named to call the House to order. After the caucus is called to order and organized the members proceed immediately to the election of Speak-

[49] *The Register and Leader* (Des Moines), January 7, 8, 1911, January 11, 1913, January 9, 10, 1915.

[50] *The Register and Leader* (Des Moines), January 12, 1907, January 10, 1909, January 11, 1913, January 9, 1915; *The Des Moines Register,* January 6, 1917.

er.[51] Each candidate is put in nomination by one of his friends with a more or less lengthy nominating speech. The nomination is seconded with another speech from some other member. Frequently the nomination is by one who had been prominently mentioned for Speaker. In 1919 McFarlane was nominated by Finley. Sometimes the nominating speeches are dispensed with.[52]

Down to 1900 the prevailing method of choosing a Speaker in the Iowa Republican caucus appears to have been by secret ballot. But in 1900 the Bowen men forced an open ballot, the members responding to the roll call. At the time there was bitter criticism of the methods used at this caucus. It was claimed that "on a closed ballot the members would have been free to express their preference" and Eaton would have been elected.[53] Since that occasion it has been customary to use ballots, the members voting as the roll is called.[54] Indeed, it is now apparently the custom for prepared printed ballots to be used as they were in 1900 for the officers other than Speaker, when "the Bowen men had been furnished with tickets like strings of street car tickets,

[51] In 1909 the question arose as to which Polk County member should open the House — the senior member in years or in House service. That year it was the senior in years. The practice has not been uniform.— *The Register and Leader* (Des Moines), January 4, 1909.

[52] *The Register and Leader* (Des Moines), January 9, 1904, January 8, 1911; *The Des Moines Register,* January 7, 1917.

[53] It was asserted by a capital city paper that "After completing the 'deals' for the speakership the doubtful members were clubbed into signing an agreement to vote for Mr. Bowen, but the managers did not dare to trust them after they had signed the agreement, therefore the signers of the agreement, were herded in a committee room at the capitol and then marched into the caucus under the whip and spur of the managers, and forced to deliver their votes as the roll was called!"— *The Iowa State Register* (Weekly, Des Moines), January 12, 1900.

[54] *The Des Moines Register,* January 7, 1917. Tellers are appointed from the membership of the caucus to supervise the balloting.— *The Register and Leader* (Des Moines), January 10, 1915.

and were tearing them off one by one and dropping them in the hat as it passed without even reading the names."[55] In 1917 it was rumored that there would be an attempt to have an open ballot; but the suggestion was opposed by many who "have friendly relations with both candidates and do not desire to commit themselves openly."[56]

Sometimes the Speaker is named on the very first ballot; occasionally it takes several ballots to arrive at a choice. In 1907 and 1911 the leading candidate was unanimously nominated. Cunningham won on the first ballot in 1913 by securing thirty-eight votes to Klay's twenty-four, thirty-two being the number necessary for election. Thirty-eight votes — just barely enough — secured the position for Atkinson in 1915 on the first ballot — Barry receiving twenty-seven and Brady nine. Pitt, too, in 1917 received a bare majority on the first ballot. The ninety-first vote cast gave him the speakership and "ended one of the sharpest fights for the honor which has ever been settled by a single ballot." When ninety votes had been read off by the tellers, Pitt had forty-seven, Elwood twenty-six, Shortess fourteen, and Neff three. The next vote gave Pitt the victory and was greeted with cheers from the caucus. The final vote stood: Pitt, forty-eight; Elwood, twenty-eight; Shortess, fifteen; and Neff, three. Elwood and Shortess moved that the nomination be made unanimous, which motion prevailed. In 1919 McFarlane was the only candidate left in the caucus and was unanimously elected on the first ballot.[57]

[55] *The Iowa State Register* (Weekly, Des Moines), January 12, 1900; *The Des Moines Register,* January 7, 1917. In 1907 it was said that the slate was not yet dry from the printing press when it was distributed among the Republican members.— *The Register and Leader* (Des Moines), January 12, 1907.

[56] *The Des Moines Register,* January 6, 1917.

[57] *The Register and Leader* (Des Moines), January 12, 1907, January 8, 1911, January 12, 1913, January 10, 1915; *The Des Moines Register,* January 7, 1917.

The custom of the caucus is to regard all ballots as formal. But in 1909 and 1915 the first ballot was made informal, and in 1917 there was a movement to have one informal ballot. In 1915 the informal ballot was made formal and Atkinson was declared elected; but in 1909 it took an informal ballot and five formal ballots to elect a Speaker. The summary of the balloting in the 1909 caucus is interesting:

Candidates	Informal	First	Second	Third	Fourth	Fifth
Feely	9	13	15	20	28	40
Stillman	6	6	8	10	13	17
Lee	12	15	19	17	15	10
Harding	19	22	21	17	13	3
Hackler	5	4	3	3	3	2
White	9	8	4	5		1
Darrah	5	2	2	1		
Marston	6	3				
Sullivan	1					
Larrabee					1	
	72	73	72	73	73	73

Marston withdrew after the first formal ballot; Darrah withdrew on the fifth; when the Lee men began to go for Stillman, Harding turned to Feely. After the election, Harding moved that the nomination be unanimous; Lee seconded the motion; and it was so made. In 1870 it took seven ballots for Cotton to beat Russell by a small majority.[58]

When it is ascertained who has been chosen Speaker by the caucus, a committee is named to escort the successful candidate to the platform. He makes a speech of acceptance similar to the one he makes after his election by the House; and frequently he outlines his program for the

[58] *The Des Moines Register*, January 6, 1917; *The Register and Leader* (Des Moines), January 10, 1909, January 10, 1915; *Iowa State Weekly Register* (Des Moines), January 12, 1870.

session. Usually the Speaker *pro tempore* and the defeated candidates also make speeches; and the whole affair ends in apparent harmony.[59] The good natured rivalry among candidates in 1919 contrasts vividly with the graceless fight in 1917.

Of late years the Democrats have held their caucus on Monday morning before the session opens. Here their choice of a member to run for the speakership is made. Sometimes they select a man to whom they can give an honorary vote. In 1904 they officially endorsed George W. Clarke, the Republican candidate. When informed of their action, Clarke thanked them and said he "appreciated the honor" and that "his appreciation would find expression in something more than words and would characterize all his actions in the house and in his treatment of members." In recent years the most important function of the Democratic caucus has been the election of a minority floor leader. Representative Rogers held this position in the Thirty-seventh and Thirty-eighth General Assemblies.[60]

V

THE FORMAL ELECTION OF THE SPEAKER

Provision is made in the Code that "The members reported by the committee [on Credentials] as holding cer-

[59] *The Register and Leader* (Des Moines), January 7, 1906, January 12, 1907; *The Des Moines Register*, January 7, 1917.

That the caucus election of Speaker does not breed ill-feeling is evidenced by the following newspaper note:

"Ed Cunningham, who was chosen for speaker by the republican caucus, Gerrit Klay, who ran next to him in the caucus, and Herbert A. Huff, who was also a candidate for Speaker, made up a theatre box party at the Berchel Saturday night for 'Gypsy Love'."— *The Register and Leader* (Des Moines), January 13, 1913.

[60] *The Register and Leader* (Des Moines), January 10, 1904, January 14, 1907, January 8, 1911, January 11, 1913; *The Des Moines Register*, January 9, 1917.

tificates of election from the proper authority shall proceed to the permanent organization of their respective houses by the election of officers." This has been the rule of law since 1851. Formerly this formal election of Speaker in the House itself occurred on the second day of the session. This custom was begun in the organization of the House of the First Legislative Assembly, which met in 1838–1839. On the second day of that session it was moved to proceed to the election of Speaker. Tellers were appointed and a ballot taken — apparently without the formality of nominations. The first ballot resulted in eleven votes being cast for William H. Wallace, four for John Frierson, two for Thomas Cox, one each for Andrew Bankson and James W. Grimes, and one blank. "Mr. Wallace, having received a majority of the whole number of votes, was declared to be duly elected Speaker". It seems to have been an established doctrine that legislative assemblies had the right of selecting their own presiding officers from among their own members without the approval or sanction of any outside authority whatsoever. Apparently they accepted the rule of general parliamentary law that a majority of the whole number of votes cast was necessary for election. In recent years — at least since 1896 — the formal election of Speaker has been conducted on the first day of the session. At present the formal election of Speaker is purely perfunctory: it simply confirms the caucus election.[61]

In the session of 1839–1840 nominations were introduced. Hon. S. C. Hastings nominated Edward Johnstone, and Loring Wheeler nominated James Churchman. The first ballot resulted in the election of Johnstone, who received seventeen out of twenty-five votes cast. Since that time nomination speeches have been common. Seconds have

[61] *Code of 1897*, Ch. 2, Sec. 9; *House Journal*, 1838–1839, pp. 14, 15, 1896, p. 7, 1917, p. 6.

also frequently been made. In recent years nomination speeches have been made and are printed in the *House Journal.* Although the nominations are partisan, the first recognition of parties in the *House Journal* occurred during the session of the Twentieth General Assembly. In that session men were placed in nomination "on behalf of the Republican members" and "on behalf of the Democrats" of the House. There have been ordinarily candidates of but two parties — Democrat and Republican. In 1884 there was an independent candidate. In 1886 three parties — Republican, Democrat, and Greenback — had candidates in the field. In 1874 the contest was between the Republicans and the Anti-Monopolists. Reuben Noble was known as the "Free Soil Speaker". When but one man is nominated it is customary to move that he be made Speaker; the roll is then called, and he is declared unanimously elected. The fullest advantage was taken — and well taken — of the opportunity offered by the nomination speech in 1919 when the name of Arch W. McFarlane was placed before the House of the Thirty-eighth General Assembly by James B. Weaver.[62]

In recent years the Democrats have not consistently put candidates in nomination for the speakership, but have frequently supported the Republican nominee. In the Thirty-first General Assembly, George W. Koontz (Democrat), of Johnson County, moved that Clarke be the unanimous choice for Speaker. In 1907 Koontz seconded the majority nomination. In 1915 when Representative Kane of Dubuque put S. H. Bauman of Van Buren County in nomination for Speaker of the House, he preceded the nomination with the following remarks:

[62] *House Journal,* 1839–1840, p. 4, 1882, p. 8, 1884, p. 9, 1886, p. 9, 1898, p. 7, 1900, p. 4, 1917, p. 7; *Iowa State Weekly Register* (Des Moines), January 16, 1874; *The Annals of Iowa* (Third Series), Vol. III, p. 195.

MR. SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES — We of the minority, in presenting a candidate for the speakership, realize the fact that in so doing we have no opportunity of securing our candidate for the permanent speaker of this assembly. But regardless of that fact, we are desirous of extending an honor to one of our members who has served for four sessions as a member of this body and who has obtained for himself distinction as a man of ability and fairness in all legislative matters. We present this candidate, not in the spirit of partisanship, but in recognition of his past accomplishments as an Iowa legislator. I have the honor of presenting to this assembly the minority candidate for Speaker of the Thirty-sixth General Assembly, the Honorable S. H. Bauman of Van Buren.[63]

Upon the roll call, Bauman received thirty votes, but he immediately moved that the election of Atkinson be made unanimous. In 1917 George W. Crozier was placed in nomination as the minority candidate, but before the roll was called, he moved that the nomination of Pitt be made unanimous. In 1919, Representative Rogers moved that the nomination of McFarlane be made unanimous, stating that the minority would not place a candidate before the House.[64]

There was no break in the manner of the election to the speakership between the Legislative Assembly of the Territory and the General Assembly of the State. Indeed, the Speaker of the First General Assembly was elected before Iowa was admitted to the Union. The session of 1846–1847 convened on Monday, November 30, 1846. J. B. Browne was elected Speaker on the second day of the session, while the State was not formally admitted to the Union until December 28, 1846.[65]

A *viva voce* election was held in the extra session of 1848,

[63] *House Journal,* 1906, p. 4, 1907, p. 5, 1915, pp. 7, 8.

[64] *House Journal,* 1915, p. 8, 1917, pp. 7, 8.

[65] *House Journal,* 1846–1847, p. 4; Shambaugh's *Documentary History of Iowa,* Vol. I, pp. 185, 186.

whereas up to that time the election had been by ballot. The *Journal* of this session recorded for the first time the vote of each member, the names having been called in alphabetical order. Since that time various methods have been used — *viva voce* roll call, acclamation, and ballot. At one session it was proposed that lottery be used as a method of selection. The *Journal* of the House of 1870 was the first to show the vote of each member together with a record of the absentees. For several sessions this record has been included when a roll call forms part of the election procedure, as has happened in every session since 1880, except those of 1917 and 1919. In the Twenty-sixth General Assembly the Speaker was elected by acclamation, but "To complete the record the chair ordered a roll call on the election of Speaker." The House of 1917 failed to thus complete the record. There have been many so-called "unanimous" elections, but probably Jacob Butler, Speaker of the Tenth General Assembly, and Willard L. Eaton, Speaker of the Twenty-ninth General Assembly, stand highest as regards the unanimity of the vote accorded them. In the Tenth General Assembly the Committee on Credentials reported eighty members as entitled to seats in the House; eighty votes were cast in the election of Speaker, and Jacob Butler received all of them. In 1902 Willard L. Eaton received every vote in the House except his own. M. B. Pitt was unanimously elected in 1917, as was Arch W. McFarlane in 1919.[66]

As at present conducted, the election of Speaker in the House is purely a form. The procedure is carefully mapped out before the session opens. In 1917 "Ramsay [Chief

[66] *House Journal*, 1840 (Extra Session), p. 6, 1852–1853, p. 6, 1856 (Extra Session), p. 6, 1856–1857, p. 7, 1860, p. 6, 1862, p. 7, 1864, pp. 4–6, 1870, pp. 6, 7, 1876, p. 8, 1878, p. 7, 1880, p. 7, 1896, p. 7, 1902, p. 4, 1917, p. 8; *Iowa State Weekly Register* (Des Moines), January 23, 1874.

Clerk] had typewritten slips prepared in advance of the morning session of the house, bearing every motion necessary to keep the wheels moving smoothly.

"The whole affair went off like clockwork. Each member had his 'cue' when to break into the game and no time was lost."[67]

It is interesting to note the conduct of the candidates in these elections. It was decided in the extra session of the First General Assembly of the State that the candidates for Speaker might be excused from voting if they so desired. The successful candidate won by taking advantage of this exemption; but the Speaker of the Fifth Legislative Assembly was probably elected by the vote of the candidate himself. For a number of years it was customary for the two candidates to exchange complimentary votes. But in 1886, Head, the Republican candidate, did not vote, although he received the vote of one of his opponents. In 1888 neither candidate voted. In the contest of 1890 Wilson voted for Hamilton but Hamilton is recorded as "not voting". In 1892, 1894, and 1915 neither candidate voted. Between 1894 and 1915 there was usually but one candidate, who, of course, did not vote for himself. In 1909 and 1913, however, Miller, the Democratic candidate, gave his vote both times to his opponent: both times his opponent was recorded as "absent or not voting". In 1913 and 1915 the successful candidate explained that had he been present he would have voted for his opponent.[68]

Very few men have had the honor of being elected at more than one regular session as Speaker of the Iowa House. James Morgan was Speaker in the Fifth Legisla-

[67] *The Des Moines Register,* January 9, 1917.

[68] *House Journal,* 1848 (Extra Session), pp. 7, 8, 1870, pp. 6, 7, 1872, p. 6, 1874, p. 48, 1884, p. 10, 1886, p. 9, 1888, p. 12, 1890, p. 83, 1892, p. 8, 1894, p. 7, 1909, pp. 7, 8, 1913, pp. 8, 9, 12, 1915, pp. 8, 17.

tive Assembly and again in the Seventh. He was talked of for Speaker of the Eighth Legislative Assembly, but, being an advocate of rotation in office, he "voluntarily declined being a candidate for re-election." John Russell was a candidate for a second term, but was unsuccessful. John H. Gear furnishes the second instance of a two-term Speaker. He served in that capacity in the Fifteenth and Sixteenth General Assemblies. The only other man to hold this distinction is George W. Clarke, of Dallas County, Speaker in the Thirtieth and Thirty-first General Assemblies. Jesse B. Browne, Speaker of the House in the First General Assembly, had been President of the Council in the First Legislative Assembly.[69]

VI

EXTRA SESSION SPEAKERS

At the first extra session of the Territorial Assembly the question arose as to whether or not the Speaker of the regular session held over. The question was decided in the negative and a new election was held. There was, however, but one nomination, and Edward Johnstone, Speaker at the regular session, received thirteen out of twenty-five votes on the third ballot and was declared elected. The second extra session of the Territorial legislature convened at Iowa City on June 17, 1844. James P. Carleton, Speaker during the regular session, was not elected; but instead, the House proceeded to choose a new Speaker,[70] and John

[69] *Iowa Capitol Reporter* (Iowa City), December 10, 1845; *House Journal*, 1870, p. 6; *Iowa State Weekly Register* (Des Moines), January 12, 1870.

[70] *House Journal*, 1840 (Extra Session), p. 4; *Iowa City Standard*, June 20, 1844. Foley was described as "a polite Irish gentleman, [who] had been sheriff of Jo Daviess county, Ill., and a member of the First Legislative Assembly of Wisconsin Territory".— *The Annals of Iowa* (Third Series), Vol. VII, p. 600.

Foley of Bellevue was the man elected to serve for the three-day session.

At the first extra session in the State period, held in 1848, Jesse B. Browne, Speaker during the regular session, was reëlected. The vote was *viva voce* and the second roll call gave him the victory on a parliamentary technicality. The precedent of electing the presiding officer of the regular session to serve as Speaker at the extra session was followed in 1856. Reuben Noble was then elected by acclamation.[71]

In 1858 the General Assembly enacted a law declaring that "The Speaker of the House of Representatives, shall hold his office, until the first day of the meeting of a regular session of the General Assembly next, after that at which he was elected." This provision is still in force.[72] Consequently at all of the extra sessions since 1856 and at the adjourned session of 1873 the Speaker of the preceding regular session has taken the chair as a matter of course. In the extra session of 1861, however, John Edwards, upon calling the House to order, declared that in the hour of national crisis party spirit and strife should be quelled, and addressed the House as follows: "I, therefore, in view of the foregoing sentiment expressed, having been elected to the position I now occupy as your presiding officer by the dominant party on this floor, in justice to the minority, I am now willing to resign my position into the hands of any other member of this body, if it should be your wish to do

[71] *House Journal*, 1848 (Extra Session), pp. 7, 8, 1856 (Extra Session), p. 6.

[72] *Laws of Iowa*, 1858, Ch. 126, Sec. 5, pp. 248, 249; *Code of 1897*, Sec. 17. In introducing this section to the House as a part of the *Revision of 1860* the Codifying Committee explained their action thus: "By reference to the Journal of the Extra Session of 1856, it will be seen that the House decided to elect a Speaker, as well as other officers, and it is for the purpose of avoiding the force of that precedent, that the provision is proposed."—*House Journal*, 1858, p. 477.

so." The *Journal* records that "The House unanimously declared that Mr. Edwards remain in the Speaker's Chair."[73]

VII

CONTESTS IN THE FORMAL ELECTION OF THE SPEAKER

There have been but two elections of Speaker in Iowa which have been seriously contested during the legislative session itself: those of the Fifteenth General Assembly in 1874 and the Twenty-third General Assembly in 1890. Minor contests occurred in the sessions of the Fifth and Sixth Legislative Assemblies and in the extra session of the First General Assembly. They deserve, perhaps, more than passing mention.

The election of James M. Morgan of Burlington as presiding officer of the Fifth Legislative Assembly was purely a partisan election. General Morgan, who was a Democrat, was not in attendance on the first day of the session. The House was almost evenly divided: there were fourteen Democrats and twelve Whigs; with two of the Democrats listed as conservatives and more or less uncertain. The Democrats on the first day successfully resisted all attempts to proceed to the election of a Speaker, and after several attempts succeeded in forcing adjournment until the following day, when Morgan was present.

On the second day of the session the Whigs offered a resolution declaring that "it is the duty of this House to select its officers equally from each of the great political parties of this Territory." Seventeen votes were recorded in favor of this resolution, nine Democrats, including Morgan, opposing it. A committee of one from each electoral district

[73] *House Journal*, 1861 (Extra Session), p. 4, 1873 (Adjourned Session), p. 3, 1897 (Extra Session), p. 1, 1908 (Extra Session), p. 1.

was appointed to make an apportionment of the officers according to representation. The committee — consisting of five Democrats and five Whigs — recommended that "the House elect a Democratic Speaker, a Whig Clerk, and a Democratic Sergeant-at-Arms." This report was adopted by a vote of fifteen to eleven, with all of the five Whig committeemen favoring it, and four of the Democratic committeemen opposing it. In the election James M. Morgan was the only nominee, but the result of the first ballot showed thirteen votes for Henry Felkner, the Democratic member from Johnson County, twelve for Morgan, and one blank. The second ballot resulted in thirteen for Morgan and thirteen scattering. On the third ballot Morgan received fourteen votes, a bare majority, and was declared elected.[74]

It took three ballots to elect James P. Carleton, Speaker of the Sixth Legislative Assembly. On the third successive ballot he received thirteen out of the twenty-five votes cast. There were nineteen Democratic members in the House. Thomas Rogers, another Democrat, received eight votes on the final ballot.[75]

An interesting situation arose in connection with the election of Speaker in the extra session of 1848. Robert Smyth and Jesse B. Browne were the leading candidates. On the first ballot there were nineteen votes for Browne, seventeen for Smyth, Smyth's one vote for Bonham, and Browne's blank vote. Browne secured just one-half of the

[74] *House Journal*, 1842–1843, pp. 3–8. The Democratic paper of Iowa City made the charge against the Whigs that after "certain of that same party had proposed a like division between the parties, of the officers of the legislature, which proposal was concurred in, this same party to a man, on the two first ballots for Speaker, (which office had been allotted to their opponents) voted against the candidate of the democratic party, and did their very best to defeat his election."— *Iowa Capitol Reporter* (Iowa City), December 17, 1842.

[75] *House Journal*, 1843–1844, p. 5.

votes cast. On the second ballot Mr. Browne did not vote, and it was moved that he be excused from voting. Otherwise the vote was the same. But if Mr. Browne should be excused from voting the ballot would mean his election. A point of order was raised on the motion to excuse; the Speaker decided that the motion was in order; and an appeal was taken, which was not sustained. On an Aye and No vote, Mr. Browne was excused from voting, twenty-eight to nine. He was accordingly declared elected Speaker.[76]

The first really extended contest for the office of Speaker occurred in the Fifteenth General Assembly. The House was divided between the Republicans and the Anti-Monopolists, with five independent Republicans holding the balance of power. Three of the independents joined with the Republicans, and two with the Anti-Monopolists, splitting the House evenly. The candidates were John H. Gear of Des Moines County, and J. W. Dixon of Wapello County. Twenty-two roll calls were held on the second day of the session for the election of Speaker, the result of each ballot being a deadlock — fifty votes for Gear and fifty for Dixon. The *Journal* during the contest affords an excellent example of obstructive parliamentary measures. The balloting continued for ten days, and the total number of ballots cast was one hundred and thirty-seven. Both parties held daily caucuses. Various proposals were made. It was suggested that the House go into conference; that the members bear the expense of the contest; that voting should be continuous without intermission or adjournment until election resulted; that the two parties hold a joint caucus; that the contest

[76] *House Journal,* 1848, pp. 7, 8. This precedent was followed in the election of the Second General Assembly. Smiley H. Bonham, of Johnson County, who was elected on the first ballot by twenty-five out of thirty-five votes, was excused from voting.— *House Journal,* 1848–1849, p. 6.

be decided by lot; and that a joint "Court of Conference" of ten men settle the question by compromise. This last suggestion was adopted and the compromise reached by this "Court of Conference" was agreed to on Thursday night, January 22nd; and on Friday morning, Mr. Gear was elected Speaker, receiving seventy-nine out of the eighty-seven votes cast. The Republicans paid dearly for the speakership, however, for the Anti-Monopolists secured all the minor offices, equal representation on all standing committees, and majorities of investigating committees including the chairmanships. "Politically speaking, the Republican 'victory' was no victory at all". The charges of corruption in this election were many and open.[77]

The last serious contest within the House itself for the speakership occurred in 1890. John T. Hamilton of Linn County was the candidate of the Democrats and Silas Wilson of Cass County the candidate of the Republicans. The first two weeks of the session were spent in electing a temporary Chief Clerk — he was finally elected on the ninety-second ballot — and in perfecting the temporary organization of the House. Then the balloting for Speaker began, resulting in a deadlock. It took twenty-three days — from January 28th to February 19th — and one hundred and thirty-seven ballots to elect John T. Hamilton. Finally a resolution, which had been agreed upon by the caucuses of the two parties, was offered and adopted; thus settling the matter. This resolution contained a compromise list of officers. The Democrats secured the Speaker, along with the Second Assistant Clerk. The Republicans elected the Speaker *pro tempore* and most of the minor officers. The committees were divided between the parties. This ended the contest and on February 19th John T. Hamilton took the

[77] *House Journal*, 1874, pp. 8–48; *Iowa State Weekly Register* (Des Moines), January 16, 23, 1874; *Burlington Weekly Hawk-Eye*, January 29, 1874.

chair, having received ninety-three votes — all that were cast. The result was undoubtedly a victory for the Democratic party.[78]

VIII

THE INSTALLATION OF THE SPEAKER

Comparative uniformity has characterized the installation of the Speaker in the Iowa House of Representatives from the time of the First Legislative Assembly of the Territory down to the present time. Indeed, the formal exercises on this occasion as recorded in the House Journals of 1838–1839 and 1919 are remarkably similar.

Immediately following the election of Speaker it is customary for some member to move that a committee be appointed to escort him to the chair. The chairman usually appoints two, sometimes three, members to perform this service. They are very often men who have been candidates against the Speaker-elect in his own party or defeated candidates of the opposing party. In the Thirty-seventh General Assembly, Speaker Pitt was escorted to the chair by Shortess of Tama, one of his competitors, and Rogers of Carroll, the minority leader. This is the usual custom in the national House, but the precedent was not followed in the Thirty-eighth General Assembly of Iowa. Before taking the chair the Speaker is required to take the oath of office. This oath, administered by the organization Speaker, reads about as follows: "You do solemnly swear that you will support the Constitution of the United States, and of the State of Iowa, and will discharge the duties of Speaker of

[78] *House Journal*, 1890, pp. 1–83; *The Des Moines Leader* (Weekly), February 27, 1890. This is the only time throughout the history of the Iowa legislature that paired votes existed on the election of Speaker. They were common in this contest, four members being paired on the final ballot.— *House Journal*, 1890, p. 83.

the House of Representatives to the best of your ability."[79]

Upon taking the chair, the newly elected Speaker makes a speech of acceptance, in which he customarily thanks the members for the honor conferred upon him, asserts his own unworthiness, and asks for the coöperation of all. Sometimes he briefly outlines in a general way what the session should accomplish. These speeches of acceptance are always short, but some of them have been especially noticeable for their brevity. In the Twenty-seventh General Assembly "Speaker Funk's speech on assuming the chair . . . . was brief . . . . but it was long enough for him to announce that . . . . he will serve the same ends of reform and economy" which he served as a member on the floor. The length of the speech is no criterion of the success of the Speaker, for it was said of Ed Wright that "though the eloquence of his accepting speech was condensed into five short sentences, he was easily voted, before the end of the session, the best Speaker Iowa ever had." When James M. Morgan was elected to the speakership in the Fifth Legislative Assembly, the organ of the opposing party asserted that "he addressed the House in a few embarrassed remarks, which are not worth publishing." In reply the paper of his own party said: "That the Speaker elect, was somewhat embarrassed upon taking the chair, no one will doubt; and [but] that the remarks which he made upon the occasion were clear, terse, and appropriate, we believe every member of the House will concede."[80]

[79] *House Journal*, 1884, p. 10, 1917, p. 8; Follett's *The Speaker of the House of Representatives*, p. 43. A "ripple of merriment swept over the house" in 1915 as "Big Bill" Atkinson was conducted to the chair by two men "whose combined bulk would about equal that of the new speaker."— *The Register and Leader* (Des Moines), January 12, 1915.

[80] *House Journal*, 1838–1839, p. 15, 1884, p. 10, 1917, p. 8; *Iowa City Standard*, December 8, 1842; *Iowa Capitol Reporter* (Iowa City), December 10, 1842; *The Iowa State Register* (Weekly, Des Moines), January 14, 1898;

Occasionally the installation is marked by some unusual feature. Following the sharp contest of 1890, Speaker Hamilton, upon assuming the chair, was presented with a gavel by Silas Wilson. In the Fourteenth General Assembly there occurred a scene during the installation of the Speaker such as never before nor since has been witnessed in the House. "Tama Jim" Wilson, the Republican candidate, won after a spirited campaign. "One of the members was Ed Campbell of Fairfield, a rock ribbed democrat, of genial, humorous, ironic temperament . . . . It was his habit, when the democrats and republicans locked horns, or members got tangled up in debate, to rise with great gravity and say, 'Mr. Speaker, in the interest of peace and harmony, I move —' and follow with some ironical suggestion foreign to the subject. On this occasion, as soon as Wilson had taken his seat, a colored waiter from the old Savery house, was seen passing down the aisle bearing a tray on which was a bottle of wine and a glass goblet. He halted at Ed's desk, whereupon Ed very deliberately filled the goblet with wine, and after a very short, fulsome greeting speech, drank a toast to the speaker on his success, the other members sitting back in perfect astonishment."[81]

After the Speaker has been installed and the permanent officers elected, the Speaker *pro tempore* usually relieves the Speaker of the chair for the remainder of the morning session.[82]

Pioneer Lawmakers' Association of Iowa, Proceedings, 1894, p. 65. Apparently, following the contest of 1890, Speaker Hamilton made no speech of acceptance. It is not mentioned in the *House Journal.*— *House Journal,* 1890, p. 83.

[81] *House Journal,* 1890, p. 83; *The Register and Leader* (Des Moines), February 17, 1907.

[82] *House Journal,* 1917, p. 11.

Table of Speakers of the Iowa House of Representatives

Speakers of the House of Representatives of the Legislative Assembly of Iowa							
Session of Legislative Assembly	Year of Service	Name of Speaker	Age at Election	Party	Residence	Occupation	Previous Legislative Experience
First	1838–1839	William H. Wallace	27	Whig	Mt. Pleasant, Henry Co.	Lawyer-farmer	
Second	1839–1840	Edward Johnstone	24	Democrat	Keokuk, Lee Co.	Lawyer	Clerk in Wisconsin L. A., 1837–1838
Second (Extra)	1840	Edward Johnstone	25	Democrat	Keokuk, Lee Co.	Lawyer	Clerk in Wisconsin L. A., 1837–1838. Iowa House: 2nd L. A.
Third	1840–1841	Thomas Cox	53	Democrat	Bellevue, Jackson Co.	Farmer-surveyor	Illinois Senate, 1818–1820 Iowa House: 1st, 2nd L. A.
Fourth	1841–1842	Warner Lewis	36	Democrat	Dubuque, Dubuque Co.	Politician	Chief Clerk, Wisconsin L. A., 1836–1837. Iowa Council: 1st, 2nd L. A.
Fifth	1842–1843	James M. Morgan	28	Democrat	Burlington, Des Moines Co.	Editor-lawyer	Iowa House: 4th L. A.
Sixth	1843–1844	James P. Carleton	31	Democrat	Iowa City, Johnson Co.	Lawyer	Indiana legislature
Sixth (Extra)	1844	John Foley		Democrat	Bellevue, Jackson Co.	Farmer	Wisconsin L. A., 1836–1837
Seventh	1845	James M. Morgan	31	Democrat	Burlington, Des Moines Co.	Editor-lawyer	Iowa House: 4th, 5th L. A.
Eighth	1845–1846	George W. McCleary	38	Democrat	Wapello, Louisa Co.	Politician	Iowa House: 6th, 7th L. A.

Speakers of the House of Representatives of the General Assembly of Iowa

General Assembly	Year of Service	Name of Speaker	Age at Election	Party	Residence	Occupation	Previous Legislative Experience
First	1846–1847	Jesse B. Browne	48	Whig	Ft. Madison, Lee Co.	Army officer-merchant	Iowa Council: 1st, 2nd, 3rd, 4th L. A. Iowa House: 8th L. A.
First (Extra)	1848	Jesse B. Browne	50	Whig	Ft. Madison, Lee Co.	Army officer-merchant	Iowa Council: 1st, 2nd, 3rd, 4th L. A. Iowa House: 8th L. A., 1st G. A.
Second	1848–1849	Smiley H. Bonham		Democrat	Iowa City, Johnson Co.		Iowa House: 1st, 1st Extra G. A.
Third	1850–1851	George Temple	46	Democrat	Burlington, Des Moines Co.	Farmer	Iowa House: 1st L. A.
Fourth	1852–1853	James Grant	41	Democrat	Davenport, Scott Co.	Farmer-lawyer	Iowa House: 4th L. A.
Fifth	1854–1855	Reuben Noble	33	Free Soil	Garnavillo, Clayton Co.	Lawyer	
Fifth (Extra)	1856	Reuben Noble	35	Free Soil	Garnavillo, Clayton Co.	Lawyer	Iowa House: 5th G. A.
Sixth	1856–1857	Samuel McFarland	32	Republican	Mt. Pleasant, Henry Co.	Lawyer	Iowa House: 5th, 5th Extra G. A.
Seventh	1858	Stephen B. Shelledy	56	Republican	Monroe, Jasper Co.	Merchant	Iowa House: 7th, 8th L. A.
Eighth	1860	John Edwards	44	Republican	Chariton, Lucas Co.	Lawyer	Indiana House. Indiana Senate. Iowa House: 7th G. A.
Eighth (Extra)	1861	John Edwards	45	Republican	Chariton, Lucas Co.	Lawyer	Indiana House. Indiana Senate. Iowa House: 7th, 8th G. A.
Ninth	1862	Rush Clark	28	Republican	Iowa City, Johnson Co.	Lawyer	Iowa House: 8th, 8th Extra G. A.

Speakers of the House of Representatives of the General Assembly of Iowa

General Assembly	Year of Service	Name of Speaker	Age at Election	Party	Residence	Occupation	Previous Legislative Experience
Ninth (Extra)	1862	Rush Clark	28	Republican	Iowa City, Johnson Co.	Lawyer	Iowa House: 8th, 8th Extra, 9th G. A.
Tenth	1864	Jacob Butler	46	Republican	Muscatine, Muscatine Co.	Lawyer	
Eleventh	1866	Ed Wright	38	Republican	Springdale, Cedar Co.	Farmer	Iowa House: 6th, 7th, 8th, 8th Extra G. A.
Twelfth	1868	John Russell	46	Republican	Wyoming, Jones Co.	Farmer	Iowa House: 9th, 9th Extra, 10th, 11th G. A.
Thirteenth	1870	Aylett R. Cotton	43	Republican	Lyons, Clinton Co.	Lawyer	Iowa House: 12th G. A.
Fourteenth	1872	James Wilson	36	Republican	Buckingham, Tama Co.	Farmer	Iowa House: 12th, 13th G. A.
Fourteenth (Adjourned)	1873	James Wilson	37	Republican	Buckingham, Tama Co.	Farmer	Iowa House: 12th, 13th, 14th G. A.
Fifteenth	1874	John H. Gear	48	Republican	Burlington, Des Moines Co.	Wholesale grocer	Iowa House: 14th, 14th Adjourned G. A.
Sixteenth	1876	John H. Gear	50	Republican	Burlington, Des Moines Co.	Wholesale grocer	Iowa House: 14th, 14th Adjourned, 15th G. A.
Seventeenth	1878	John Y. Stone	34	Republican	Glenwood, Mills Co.	Lawyer	Iowa House: 12th, 13th, 16th G. A. Iowa Senate: 14th, 15th G. A.
Eighteenth	1880	Lore Alford	41	Republican	Waterloo, Black Hawk Co.	Lawyer	Iowa House: 17th G. A.
Nineteenth	1882	George R. Struble	45	Republican	Toledo, Tama Co.	Lawyer	Iowa House: 18th G. A.

Speakers of the House of Representatives of the General Assembly of Iowa

General Assembly	Year of Service	Name of Speaker	Election Age at	Party	Residence	Occupation	Previous Legislative Experience
Twentieth	1884	William P. Wolf	49	Republican	Tipton, Cedar Co.	Lawyer	Iowa House: 10th, 19th G. A. Iowa Senate: 12th, 13th G. A.
Twenty-first	1886	Albert Head	47	Republican	Jefferson, Greene Co.	Real estate dealer	Iowa House: 20th G. A.
Twenty-second	1888	William H. Redman	47	Republican	Montezuma, Poweshiek Co.	Lawyer	Iowa House: 21st G. A.
Twenty-third	1890	John T. Hamilton	46	Democrat	Cedar Rapids, Linn Co.	Merchant	Iowa House: 21st, 22nd G. A.
Twenty-fourth	1892	William O. Mitchell	45	Republican	Corning, Adams Co.	Lawyer	
Twenty-fifth	1894	Henry Stone	42	Republican	Marshalltown, Marshall Co.	Lawyer	Iowa House: 24th G. A.
Twenty-sixth	1896	Howard W. Byers	38	Republican	Harlan, Shelby Co.	Lawyer	Iowa House: 25th G. A.
Twenty-sixth (Extra)	1897	Howard W. Byers	39	Republican	Harlan, Shelby Co.	Lawyer	Iowa House: 25th, 26th G. A.
Twenty-seventh	1898	James H. Funk	55	Republican	Iowa Falls, Hardin Co.	Farmer	Iowa House: 25th, 26th, 26th Extra G. A.
Twenty-eighth	1900	Daniel H. Bowen	49	Republican	Waukon, Allamakee Co.	Physician	Iowa House: 26th, 26th Extra, 27th G. A.
Twenty-ninth	1902	Willard L. Eaton	53	Republican	Osage, Mitchell Co.	Lawyer	Iowa House: 27th, 28th G. A.
Thirtieth	1904	George W. Clarke	51	Republican	Adel, Dallas Co.	Lawyer	Iowa House: 28th, 29th G. A.

Speakers of the House of Representatives of the General Assembly of Iowa

General Assembly	Year of Service	Name of Speaker	Age at Election	Party	Residence	Occupation	Previous Legislative Experience
Thirty-first	1906	George W. Clarke	53	Republican	Adel, Dallas Co.	Lawyer	Iowa House: 28th, 29th, 30th G. A.
Thirty-second	1907	Nathan E. Kendall	38	Republican	Albia, Monroe Co.	Lawyer	Iowa House: 28th, 29th, 30th, 31st G. A.
Thirty-second (Extra)	1908	Nathan E. Kendall	40	Republican	Albia, Monroe Co.	Lawyer	Iowa House: 28th, 29th, 30th, 31st G. A.
Thirty-third	1909	Guy A. Feely	33	Republican	Waterloo, Black Hawk Co.	Lawyer	Iowa House: 32nd, 32nd Extra G. A.
Thirty-fourth	1911	Paul E. Stillman	42	Republican	Jefferson, Greene Co.	Printer	Iowa House: 32nd, 32nd Extra, 33rd G. A.
Thirty-fifth	1913	Edward H. Cunningham	42	Republican	Newell, Buena Vista Co.	Real estate dealer	Iowa House: 33rd, 34th G. A.
Thirty-sixth	1915	William I. Atkinson	38	Republican	Clarksville, Butler Co.	Lyceum bureau manager-lawyer	Iowa House: 35th G. A.
Thirty-seventh	1917	Milton B. Pitt	40	Republican	Logan, Harrison Co.	Farmer	Iowa House: 36th G. A.
Thirty-eighth	1919	Arch W. McFarlane	33	Republican	Waterloo, Black Hawk Co.	Travelling salesman	Iowa House: 36th, 37th G. A.

IX

THE SPEAKER: A PARLIAMENTARY OFFICER

The Speaker of the Iowa House of Representatives has a two-fold position. He is a parliamentary officer and a political leader. His powers as a moderator are closely interrelated with his opportunities as a party man. Sometimes parliamentary prerogatives are converted into political opportunities. The position of the Speaker as the selected leader of his party is one in which he is expected to advance political interests. But there are certain functions which are purely parliamentary, and their correct execution is fully as much an index to the success of a Speaker as is the the enactment of the legislative program of his party.

While the Speaker is as a rule conceded to be the leader of his party and while it is rather expected that he will serve party interests whenever possible, not all Speakers consider it proper to use their position to benefit their party. Early Speakers were often interested in certain bills, some of which were party measures, and worked for their passage. Recent Speakers, too, have sometimes been zealous in the use of their official position to serve party or factional ends. But there have been Speakers who considered the position as merely that of a moderator. George W. Clarke, one of the ablest Speakers who ever presided over the Iowa House, took that attitude. He openly declared that he was a moderator only. In his speech before the caucus he said: "I have observed in some states what seemed to me to be an effort on the part of speakers to control by the influence from the speaker's office legislation on matters coming before the assembly. That is not my conception of the province of the office. It is rather the business of the speaker to facilitate the transaction of business as it comes before the body, impartially". Guy A. Feely,

Speaker of the Thirty-third General Assembly, was of the opinion that he should not influence legislation at all. He did, however, indicate what he considered to be the two most important bills before the session. Paul E. Stillman in 1911 was more of a moderator than a political Speaker. He was said to possess "the happy combination of a forceful and impartial moderator." The Speaker of the Thirty-seventh General Assembly was very active as a political leader and energetic in pushing through legislation which he and his faction desired to have enacted; and yet, following the big debate of the session — on the Johnston road bill — it was claimed that the Speaker had been fair and impartial in his conduct of the debate.[83] McFarlane, upon assuming the chair in 1919, assured the House that he would preside only, and not use his position to influence legislation.

The Speaker is the mouthpiece and representative of the House. When the House desires to act as a whole it is represented by its presiding officer. He receives all communications addressed to the House and lays them before the House; he receives and announces messages and reports

[83] *Iowa Capitol Reporter* (Iowa City), June 7, 1845; *The Register and Leader* (Des Moines), January 7, 1906, February 2, 1909, January 10, 1911.

"Both sides alternated in speaking, Pitt recognizing first one of the administration men, and then an opposition orator." But in the recognition of speakers, Mr. Pitt undoubtedly exercised partisan influence.— *The Des Moines Register,* March 10, 1917.

"There was no criticism offered by the Elwood men against any of the important rulings of the chair, and the speaker avoided anything that resembled steam roller tactics."— *The Des Moines Register,* March 11, 1917.

Contrary to this was the allegation made against an early Speaker: "Mr. Speaker's logic don't work both ways; he decided it to be in order to strike out the name of a whig and place in that of a loco foco — but thought it against the rules to amend a motion so as to strike out the name of a loco foco and place in that of a whig"; and again, that the "Speaker let loco focos villify whig editor, but *attempted* to keep whig members from answering."— *Hawkeye and Iowa Patriot* (Burlington), January 6, 1841.

from the other branches of government; he receives guests in the House chamber; he receives resignations of members and employees; he represents the House at public ceremonies; and he is on numerous other occasions the official representative of the body over which he presides. He has even been party to a legal suit as the representative of the House.[84]

The Speaker carries out all orders of the House. He issues warrants for the arrest of offenders against the House. He has charge of all proceedings in the House, such as the selection of seats. He has the appointment of not a few officers and employees and supervises the assignment of the duties and stations of many more. He also certifies to the time of the House employees. All documents, acts, orders, and resolutions of the House must be authenticated by the Speaker's signature.[85]

In recognition of the services of the Speaker, he is allowed a compensation double that of the other members. Thus, at present he receives one thousand dollars as a member of the General Assembly, and in addition, one thousand dollars as Speaker of the House of Representatives. There is no statutory provision for this expenditure; but custom dictates that each house should include this appropriation in the omnibus bill.[86]

X

THE SPEAKER IN THE CHAIR

The parliamentary powers and duties of the Speaker are derived from the Constitution and statute laws of the State,

[84] *House Journal*, 1838–1839, pp. 25–27, 68, 1845–1846, pp. 10, 190, 1917, pp. 931, 968; *Code of 1897*, Sec. 1268 (2); *The Register and Leader* (Des Moines), January 12, 1911. See Cliff *v.* Parsons, 90 Iowa 665, at 666.

[85] *House Journal*, 1838–1839, p. 90, 1846–1847, p. 57, 1862 (Extra Session), p. 4, 1892, p. 503, 1915, pp. 14, 15; *House Rules*, 1917, Rule 8.

[86] *Laws of Iowa*, 1917, Ch. 292, Sec. 4, p. 319.

from the rules of the House, from legislative practice in Iowa, and from general parliamentary law.[87] The Constitution requires that the Speaker shall sign bills, and that he shall open and publish the returns of the election for Governor and Lieutenant Governor in the presence of both houses at the opening of the session. The statute laws provide that he shall preside in joint convention in the absence of the President of the Senate. The great bulk of the powers and duties of the Speaker, however, are derived from custom and the rules of the House.[88]

The first duty which the rules impose upon the Speaker of the House is that of opening the daily sessions. "He [the speaker] shall take the chair every day precisely at the hour to which the house shall have adjourned; shall immediately call the members to order, and on appearance of a quorum shall cause the journal of the preceding day to be read.[89] If no quorum is present, measures may be taken

[87] The Speaker is apparently not responsible to the House for his term is fixed by law, and no provision is made for his removal. The question of removal has never arisen in Iowa, as it never has in Congress.—Follett's *The Speaker of the House of Representatives*, p. 124.

[88] *Constitution of Iowa*, 1857, Art. III, Sec. 15, Art. IV, Sec. 3; *Code of 1897*, Sec. 23. In the first joint convention for the election of United States Senator in the General Assembly of the State, the Speaker of the House presided, and not because the President of the Senate was absent, either. "When the senators went into the representative hall, Baker, the presiding officer of the senate, who was an unassuming man . . . . walked up to the stand for the purpose of taking the chair, to preside over the joint convention, Brown[e] . . . . sternly refused to give it up . . . . Brown[e] having possession of the chair, and being sustained by the whigs, retained his position, and he and the clerk of the house acted as the officers of the joint convention."—*The Annals of Iowa* (First Series), Vol. IX, p. 650; *House Journal*, 1846–1847, p. 95.

[89] *House Rules*, 1917, Rule 1. The journal was formerly read regularly each day. Later it was neglected and sometimes the journals for a week or longer would be read and corrected at one time. Occasionally it was overlooked entirely. In one session the Speaker suggested that all members interested in matters considered the preceding day should examine the minutes to see if

to secure one. Any five members, if the Speaker is in the chair, can compel the attendance of absent members. Upon a call of the House, the Speaker directs the sergeant-at-arms to compel absent members to attend. This method of securing a quorum was used fourteen times in the Iowa House in 1917. In former sessions members sometimes refused to answer roll call and thus prevented action; but the "Reed rule" relative to a quorum has now been adopted in Iowa. "Any member occupying his seat during a call of the house shall be counted by the speaker and his name entered in the journal as being present but not voting, for the purpose of making a quorum."[90] A duty exercised by the Speaker corresponding to that of calling the House to order is the duty of declaring, upon motion, that the House is adjourned. This he does at the close of each day's session. At the hour of twelve o'clock noon on the day fixed for final adjournment the Speaker declares the House adjourned *sine die*.[91] The House is not adjourned until the Speaker so

they were correct. At present the journal is "corrected and approved" daily, but is not read in the House.— *House Journal,* 1858, p. 303, 1884, p. 590, 1898, pp. 497, 906, 1917, p. 193.

[90] *House Rules,* 1917, Rules 35, 38. The "Reed rule" was adopted in the Iowa House in 1896. The President of the Senate found it necessary to use this method of securing a quorum as early as 1892, but the first record of it in the House was in 1896, after the adoption of the rule. It was alleged in the session of 1846–1847 that business was transacted when no quorum was present. — *House Rules,* 1894, Rule 38, 1896, Rule 38; *The Iowa State Register* (Weekly, Des Moines), January 22, 1892; *House Journal,* 1896, p. 931; *Iowa City Standard,* March 10, 1847.

[91] *House Journal,* 1917, p. 2221. It frequently occurs, on the day of adjournment, that business can not be completed at twelve o'clock. In that event it is customary to stop the hands of the clock. In 1884 when the gavel fell at twelve by the clock, members' watches read five o'clock. In 1909 a disgruntled member attempted to force adjournment in a similar situation because it was after the time when adjournment was supposed to take place. The Speaker, who had ordered the clock stopped, pointed to it and said he was governed by that clock. The House cheered enthusiastically.— *The Register and Leader* (Des Moines), February 17, 1907, April 10, 1909.

pronounces it.[92] The Speaker may also declare the House adjourned for a short recess.[93]

One of the important duties of the presiding officer is the preservation of order and decorum. Any member who, in speaking or otherwise, transgresses the rules of the House, may be called to order by the Speaker.[94] No very serious cases of unmanageable disturbance have been recorded in the Iowa House. Sometimes, however, members become unruly and the Speaker has difficulty. When James M. Grant was Speaker, he had difficulty with a member named Gilman Folsom who was dissatisfied with his committee assignments. Folsom denounced the Speaker at every opportunity and often became very abusive. Grant took the floor at times to answer him, and on one occasion it was necessary for the Speaker *pro tempore* to have the sergeant-at-arms separate the two men.[95]

The duty of preserving order and enforcing parliamentary rules in debate is one the exercise of which is called into play much more frequently and generally than is that of quelling disorder on the floor. The Speaker must always see that members restrain themselves within the rules of order. When those rules are transgressed, he must call the member to order. He must always keep himself, as well as the House, under control. This often requires a great deal of force and self-restraint. John Edwards, although in many respects an admirable presiding officer, was unable

[92] Compare with Jefferson's *Manual*, Sec. 50.

[93] How the Speaker may manipulate the procedure in the House to subserve party ends was seen in the extra session of 1908, when Speaker Kendall ordered a ten minute recess and a Republican caucus was held in that ten minutes.— *The Register and Leader* (Des Moines), September 1, 1908.

[94] The Speaker also has power to clear the lobby in case of any disturbance or disorderly conduct.— *House Rules*, 1917, Rules 2, 9, 12.

[95] *Pioneer Lawmakers' Association of Iowa, Proceedings*, 1896, p. 33.

to control the deliberations of the House. During the session in which he was Speaker there was much annoying filibustering. Edwards was in poor health and was often worried almost beyond endurance. On such occasions he would call N. B. Baker or Ed Wright to the chair, and the gavel would be wielded with a firmer hand. Ed Wright was, on the other hand, thoroughly master of the situation at all times. The Chief Clerk of the House said later that he did not recall "an instance in which he was disconcerted or baffled for a single moment. He was thoroughly informed upon every point of parliamentary law, and kept the House and himself well in hand." The presiding officer should never lose his temper as did the Speaker at a recent session of the General Assembly upon one occasion.[96]

The Speaker always decides, subject to review by the House, all points of order. Most points of order are decided as they arise, but sometimes a longer time is required for ruling upon them. Occasionally a day or two is taken by the Speaker to decide a point of order. Sometimes he obtains assistance from the floor or submits the question to the House.[97] Often a written ruling on a mooted point is

[96] *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1886, p. 22; *The Annals of Iowa* (Third Series), Vol. I, pp. 84, 85, Vol. II, pp. 379, 380; *The Des Moines Register,* March 23, 1917. In the session over which Stephen B. Shelledy presided there was a member who constantly criticised the Speaker because he did not control in a more autocratic manner the procedure of the House. He complained that altogether too much time was wasted in extended discussion. On the last day of the session there was a lull in proceedings, and Shelledy called him to the chair. He soon discovered that keeping order in the House was no small job. "He had scarcely squared himself in the chair, when a member rose to a question of personal privilege." Ed Wright at once interposed with a point of order. "In an instant another member was on his feet in defense of his right to speak, another was up in defense of the point of order, whilst a third was insisting that the Chair should decide the point of order. So for the next half hour Bedlam was turned loose."—*Pioneer Lawmakers' Association of Iowa, Proceedings,* 1892, p. 62.

[97] *House Rules,* 1917, Rule 2; *Tri-Weekly Iowa State Journal* (Des Moines), January 27, 1858; *House Journal,* 1917, p. 1378.

distributed and printed in the journal. At times a Speaker will reverse his decision. Appeals from the decision of the chair are common and it is not at all unusual for the decision to be overruled. It has been claimed for but one Speaker — Rush Clark — that there was not a single appeal from any decision he ever made. An attempt was once made to refer a decision of the chair to a committee, but such an unusual procedure was voted down. The Speaker of the Thirty-seventh General Assembly made an impassioned appeal to the House on one occasion to sustain his decision.[98] The Speaker may sidestep decisions and leave

Speakers were accustomed frequently to call on Ed Wright to straighten out parliamentary kinks. "If the House got into a tangle, every one was willing to smother his wrath and sit quietly while Ed explained the situation and brought order out of the chaos."— *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1886, p. 22; *The Annals of Iowa* (Third Series), Vol. II, p. 377.

[98] He is quoted as saying "I am ashamed of the members of this house who refuse to uphold the chair".— *The Des Moines Register,* March 23, 1917.

An unusual thing happened in connection with a ruling by the Speaker on a point of order in the Thirty-seventh General Assembly. House File No. 403 was passed by the House and passed with amendments by the Senate. When the bill as amended came up in the House on March 30th, it was moved that the amendments be laid on the table. Turner of Iowa raised the point of order that "inasmuch as the motion to lay the Senate amendments on the table would involve the final disposition of the bill, the motion would require a Constitutional majority." On April 5th the Speaker ruled on this point of order that it could not be sustained upon the reason assigned by the member, but that it could be sustained upon another ground, namely, that it was in conflict with Joint Rule No. 1 of the General Assembly. This rule provides that in a situation such as confronted the House at that time, one of three things must be done. The House could "(1) amend an amendment made by the Senate to a bill passed by the House and returned to it for concurrence, or (2) concur in the amendment made by the Senate, or (3) refuse to concur therein." The Speaker ruled that tabling the amendment nullified this joint rule. Seven members, including the Speaker *pro tempore* prepared and had privately printed and distributed a three-page "STATEMENT In Re Point of Order Raised by the Gentleman from Iowa, Mr. Turner, in Relation to House File No. 403." Herein the right of the Speaker to "voluntarily and of his own motion" raise a point of order "after a vote has been taken, and the result announced" was denied. They thoroughly fortified their position by the citation of authorities.

them to a vote of the House. He has been known to rule appeals out of order altogether.[99]

Most Speakers are more or less arbitrary in their rulings from the chair. According to the tact which they use they are praised or blamed for this quality. Speaker Funk was often arbitrary, but he was also usually in the right. Speaker Clarke was complimented because he forced business through by the aid of autocratic decisions. It was said of W. P. Wolf that he was "positive in his rulings from the chair, and sometimes almost belligerent, but always just." The Chief Clerk at one time warned the Speaker of the Twenty-seventh General Assembly that he was ruining his political future by persisting in the arbitrary rule he was making, but the warning had no effect.[100]

Decisions are, of course, based on precedent; but occasionally a Speaker either does not follow precedent or makes a new precedent for others who succeed him. Jacob Butler as Speaker of the Tenth General Assembly ruled that a two-thirds vote was necessary to take up a bill which

Moreover, the decision of the Speaker was criticised in itself. It was contended that a motion to table an amendment did not finally dispose of the bill, but only temporarily removed it from the consideration of the House. Of course in practice it really is finally disposed of, especially in the Senate, where a two-thirds vote is necessary to remove it from the table. But in the situation as it existed in the House of this session, the protest was doubtless justified.— *House Journal,* 1917, pp. 1178, 1383, 1418, 1419, 1644–47; *Senate Journal,* 1917, p. 1282; *Joint Rules,* 1917, Rule No. 1; *Senate Rules,* 1917, Rule 38.

[99] *The Des Moines Register,* April 3, 1917; *House Journal,* 1843–1844, pp. 39, 40, 1846–1847, p. 73, 1866, p. 409, 1909, p. 1654, 1917, pp. 1645–1647, 1648; *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1906, pp. 23, 24.

[100] *The Iowa State Register* (Weekly, Des Moines), March 25, 1898; *The Register and Leader* (Des Moines), April 12, 1904, April 7, 1906; *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1907, p. 42. Upon one occasion, when a member attempted to instruct the Speaker on a point of procedure, he "was politely told by the Speaker that he was familiar with the parliamentary rule on that question."— *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1907, p. 42.

had been reported unfavorably by a committee. There was indignant protest that no such rule existed. Butler explained that he had made the rule "to expedite business and for the public good" and that it would remain the rule until stricken out by the House. Thus by a parliamentary decision a bill was killed. The great power which a Speaker may exercise over legislation by the mere manipulation of parliamentary rules was well illustrated in the session of the Thirty-seventh General Assembly. The bill creating an eighth judge in the Iowa Supreme Court had been passed by both houses. The Senate had, however, passed it with an amendment, in which it asked the House to concur. The House tabled the motion to concur by a vote of fifty-one to forty-nine. The Speaker was interested in the bill, and might revive it by ruling that the motion to table was out of order. He so ruled, not upon the ground raised by the member who made the point of order, namely, that it required a constitutional majority to finally dispose of the bill; but because such action was not in accord with the joint rules of the General Assembly. The ruling revived the bill, but was denounced as unjust and unprecedented. While there was no appeal from this ruling, the bill was defeated a few hours later. Thus, it may be seen that presiding officers make parliamentary law just as judges in the courts make Common Law, and decisions are often of great political importance. Especially in dealing with obstruction can the Speaker accomplish much by the decisions he makes.[101]

A perfunctory but necessary duty of all presiding officers is the announcing of the order of business. Over this order

[101] *Pioneer Lawmakers' Association of Iowa, Proceedings*, 1894, pp. 44, 45; *The Register and Leader* (Des Moines), February 17, 1907; *The Des Moines Register*, March 31, April 6, 1917; *House Journal*, 1917, pp. 1645–1648. See note 98, above.

he has very slight authority; it is determined by the rules. Another necessary duty and one which is purely parliamentary is the obligation to put to vote all motions and propositions which are in order. The rules require that "when a motion is made and seconded, it shall be stated by the speaker". When any matter under consideration is voted upon, it devolves upon the Speaker to announce the vote.[102]

The respect which parliamentary usage accords to the Speaker assists him in the performance of his duties. Any one who desires to participate in the discussion on the floor of the House must first "rise from his seat and respectfully address himself to the presiding officer by his title, saying 'Mr. Speaker' ". The rules require that "when a member is speaking,— no one shall . . . . pass between him and the speaker." The office carries with it a certain sense of dignity, and a certain demand for courteous treatment which is as a rule complied with.[103]

The Speaker must recognize members who address him before they can proceed to speak. He does not assign the floor to a member by name, but refers to him as "the gentleman from Woodbury", or whatever county he happens to represent. The power of recognition is one which may be used for the advancing of party interest but which in Iowa is so used to only a limited extent. In strict parliamentary law, when the possession of the floor is claimed by two or more members, that one should be recognized who first catches the eye of the Speaker. In practice, however, the

[102] The Speaker may remain seated while stating a motion; but is required to rise when he puts the question to the House.— *House Rules*, 1917, Rules 3, 10, 19.

[103] *House Rules*, 1917, Rules 11, 15.

A member in the First General Assembly —"Father" Clifton — could not accustom himself to addressing the Speaker by his title, but would always break out "Now, General Brown," and continue with what he desired to say. — *Pioneer Lawmakers' Association of Iowa, Proceedings*, 1896, p. 34.

Speaker uses his judgment as to whom he shall assign the floor, and it is purely arbitrary. Indeed, the rules now provide that "Should two or more members rise at the same time, the speaker shall designate the member entitled to speak." The Speaker, under the practice, even determines who rose first or whether members did rise at the same time. In the national House it is common practice for the Speaker to ask a member "for what purpose" he arises. There, as well as in many of the States including Iowa, the Speaker has a list of those who desire recognition.[104]

Certain usages have grown up in connection with recognition. The Speaker will generally recognize a committee in the person of its chairman in preference to an individual member; if a member has charge of a certain bill, he has preferred recognition; matters of privilege or questions of order are means by which a member may secure the floor; during debate the floor is usually granted alternately to members of the different factions. It frequently happens that the manner in which a man seeks recognition secures it for him. Upon occasion it will happen that the Speaker will refuse recognition if the manifest purpose is to filibuster. Speaker Cunningham announced in 1913 that he would refuse recognition when it was sought for the purpose of recording votes for members who had been absent when the vote was taken.[105]

[104] *House Rules*, 1917, Rule 13; Follett's *The Speaker of the House of Representatives*, pp. 250, 251.

That it is not always an easy matter to secure recognition is evidenced by the following: "Sankey's resolution is due to come today, if he desires it, and can get Speaker Feely's eye."— *The Register and Leader* (Des Moines), January 12, 1909.

[105] *The Register and Leader* (Des Moines), March 11, 1913; *The Des Moines Register*, March 10, 1917.

It was said of Samuel McNutt — in the Tenth, Eleventh, Twelfth, Thirteenth, and Fourteenth General Assemblies — that he "could arise to his feet

One of the really important and yet purely ministerial duties imposed upon the Speaker is that of signing bills and joint resolutions which pass the two houses of the General Assembly. The Constitution of the State prescribes the exercise of this function. It is also provided for in the rules of the House and the joint rules of the General Assembly. The bills which are passed are enrolled and then examined by a joint enrollment committee, who report the correct enrollment of the bills to their respective houses. The bills are then signed, first by the Speaker of the House and then by the President of the Senate, before being sent to the Governor for approval. In the Thirty-eighth General Assembly, House File No. 1 was passed by both houses before the enrollment committee was appointed, and Speaker McFarlane signed it without its being reported correctly enrolled. The joint rules of the First General Assembly provided that bills should be signed "in the respective Houses", but when Speaker Browne was ill, bills were taken over to his lodging, one hundred yards from the capitol building for him to sign.[106]

In the early days the Speaker was not always careful about performing this duty efficiently. After the session of 1847–1848, it was alleged that the laws were in very poor

and get recognition from the speaker with more celerity than any man I have ever seen. Quicker than a flash he was on his feet, and with a sort of 'wildness in his aspect,' his raven hair standing out, his large, black eyes gleaming, his hand upraised, his whole attitude theatrical as ever was that of Sheil or Curran, he would cry out 'Mr. Speaker,' with a voice so percussive, and with an air so dramatic that it had the immediate effect to impress both the speaker and the house, that some startling announcement was about to be made. He seldom failed to get his shovel in ahead."—*Pioneer Lawmakers' Association of Iowa, Proceedings,* 1898, p. 26.

[106] *Constitution of Iowa,* 1857, Art. III, Sec. 15; *House Rules,* 1917, Rule 8; *Joint Rules,* 1846–1847, Rule 7, 1917, Rule 6; *Iowa City Standard,* February 3, 1847; *House Journal,* 1919, p. 99.

Recent rules have prescribed that the Speaker and President sign bills "in the presence of their respective houses."—*Joint Rules,* 1917, Rule 6.

shape, some of them not even having been signed by the presiding officers. The question of the validity of these laws was not raised, however. But in 1904 that question did arise. House File No. 458 was passed by the House and sent to the Senate. The Senate passed the bill almost immediately. The House had a rule that allowed reconsideration within twenty-four hours, and the bill was reconsidered within that time but not until after it had been passed by the Senate. When requested by the House to return the bill, the Senate refused. But of course it was necessary to send the bill to the House for enrollment and signature. Ordinarily it would not again come up for reconsideration in the House, but would remain in the custody of the recording officer until enrolled by the enrolling clerk and presented to the Speaker for his signature. The enrolling clerk, however, is subject to the direction of the House; and the House voted that House File No. 458 should not be enrolled immediately but reserved for further consideration.[107]

This action of the House in refusing to enroll the bill precipitated a heated discussion. The House maintained that the Speaker could not sign the bill until it was enrolled. The Senators who favored the bill insisted that it was the constitutional duty of the Speaker to sign the bills that were passed by both houses, and that the action of the House in refusing to endorse its enrollment could make no difference. The question arose as to whether or not the bill could become law without the signature of the Speaker. Could he be compelled to sign? It was generally conceded that he must sign. Representative Temple planned to intro-

[107] *Iowa City Standard*, February 9, 1848; *House Journal*, 1904, p. 1273, 1300, 1317, 1319; *House Rules*, 1904, Rule 32; *Statute Law-making in Iowa* in the *Iowa Applied History Series*, Vol. III, pp. 268, 269; *Iowa Manual of Legislative Procedure, Thirty-seventh General Assembly*, p. 89.

duce a resolution authorizing the Speaker to refuse to sign bills, thus putting the House back of his action. But the House on the following day brought up the bill for consideration and it was defeated on passage by a vote of fifty-eight to four. Adjournment *sine die* was scheduled for the following day and there was no time for the Senate to register a protest. They merely "passed on file" the House message which apprised them of the action of the House. Thus the question of whether or not an act of the legislature was invalidated by the failure of a Speaker to sign it remained for the time undecided.[108]

A few years later, however, the matter again pressed for decision. Following the session of the Thirty-third General Assembly, it was discovered that the enrolled bill, Senate File No. 37 (Ch. 214, 33 G. A.), printed in the *Code Supplement of 1913* as sections 4944-a to 4944-h inclusive, failed to show the signature of the Speaker of the House.[109] The question of whether or not these sections of the Code were law came up for judicial settlement in the case of *State v. Lynch,* 169 Iowa 148. It had been held in a number of Iowa cases that the enrolled bill duly signed and deposited with the Secretary of State was the ultimate proof of its regular enactment, and that the court would not go behind that record and consult the journals of the houses to ascertain the legislative intent.[110] But the case of a bill which

[108] *The Register and Leader* (Des Moines), April 11, 1904; *House Journal,* 1904, pp. 1324, 1325; *Senate Journal,* 1904, p. 1204.

[109] *Supplement to the Code of Iowa, 1913,* p. 1795.

[110] This doctrine is given expression in Clare *v.* The State, 5 Iowa 509; Duncombe *v.* Prindle, 12 Iowa 1 at 11; Collins *v.* Laucier, 45 Iowa 702; Koehler & Lange *v.* Hill, 60 Iowa 541; Jordan *v.* Circuit Court of Wapello Co., 69 Iowa 177; Des Moines Ry. Co. *v.* Des Moines, 152 Iowa 18; Conly *v.* Dilley, 153 Iowa 677; Miller *v.* City of Oelwein, 155 Iowa 706; and the whole line of decisions is reviewed in the recent case of State *v.* Lynch, 169 Iowa 148. See pages 450–455 of Patton's *Interpretation and Construction of Stat-*

was not signed had never been the subject of judicial review. It was decided in *State v. Lynch,* however, that "in order that a bill may become a valid law of this state, compliance with the section of the Constitution under consideration (Sec. 15 of Article 3), exacting the signature of the speaker of the house as well as that of the president of the senate, is essential to the authentication of the bill in form and substance as well as essential to certifying its passage", and that "in consequence thereof, chapter 214 of the 33rd general assembly, not having been signed by the speaker, is not and never was a part of the laws of this state."[111]

The Speaker of the Thirty-seventh General Assembly failed to affix his signature to two acts passed at the 1917 session — Senate File No. 25 and Senate File No. 403. The editor of the session laws put them in as addenda, indicating that they were not to be considered as valid laws. What might be the result in case the courts went behind the enrolled bill and consulted the journals of the house is here illustrated. For the journal of the House for April 12th records the announcement of the Speaker that he had signed these two bills in the presence of the House. The enrolled bills furnish proof that he did not. It is presumed, of course, that when the Speaker fails to sign bills he does so through neglect. Such a failure, however, gives him as well as the Lieutenant Governor, a veto which, when it is not discovered, is in effect equal to that of the Governor. It is interesting to conjecture whether or not the Speaker could be compelled to sign acts passed by both houses of the General Assembly. It is generally conceded that the provision in the Constitution is mandatory, although it is

utes in Iowa in *Statute Law-making in Iowa,* in the *Iowa Applied History Series,* Vol. III, for a discussion of this point as expressed by the cases prior to State *v.* Lynch.

[111] State *v.* Lynch, 169 Iowa 148, at 170, 171.

only indirectly so. Very probably the courts would interpret this provision in accordance with the case of *Marbury v. Madison,* as prescribing the performance of a ministerial act, and allow a writ of mandamus to be served on the Speaker compelling him to sign.[112]

XI

THE SPEAKER AS POLITOCRAT

The official conduct of the Speaker exhibits evidences of political activity. In Iowa the political power of the Speaker is mainly derived from and exercised in the functions of "appointment" and "reference". The power of recognition has been treated as parliamentary rather than political in character, because in this State the Speaker has not to any great extent used his privilege of recognition of members in debate for factional purposes. The Iowa House is small, much of the work is done by committees, and members do not seek recognition frequently. No member who desires to speak will find any great difficulty in securing the floor. In addition to the influence used in connection with the two functions of appointment and reference, the Speaker may, as a member voting and speaking, be as thorough a partisan as he wishes.

The greatest political power possessed by the presiding officer of the Iowa House is that of appointing the chairmen of committees, particularly of the standing committees. The performance of this function has been accorded to the Speaker of the Iowa House throughout the history of the

[112] *Laws of Iowa,* 1917, pp. 467–469; *House Journal,* 1917, p. 2006. The Constitution reads "every bill . . . . shall be signed by the Speaker". To be directly mandatory it should read "The Speaker shall sign every bill". It is doubtful, however, if the courts would recognize this distinction.— *Constitution of Iowa,* 1857, Art. III, Sec. 15.

office. The House rules of each session have provided that unless otherwise especially directed by the House, all committees should be appointed by the Speaker. True, it was customary for a number of years for the House in each session to authorize by resolution the appointment of committees by the Speaker; and frequently he was instructed as to what committees should be appointed.[113]

Steady and consistent growth has marked the increase of the Speaker's power of committee appointment, until to-day it is practically absolute: the Speaker now has the sole and final authority over the composition of the standing committees,[114] and for some years has abolished and created them at will. There has been little tendency in Iowa to curb the power of the Speaker in respect to the appointment of committees, although there was talk among the "stand-patters" in 1911 of attempting to secure a committee on committees.[115]

[113] *House Rules,* 1838–1839, Rule I, 1917, Rule 6; *House Journal,* 1838–1839, p. 19; 1839–1840, p. 8, 1840–1841, p. 6; 1841–1842, pp. 8, 9, 1898, p. 17.

In the extra session of 1840 the Speaker was authorized to appoint the usual standing committees at his pleasure.— *House Journal,* 1840 (Extra Session), p. 8.

[114] The only legal limitation upon this power is in the case of the joint standing committee on retrenchment and reform, which is a statutory committee. The membership of this committee in the House is prescribed as the chairmen of the House standing committees on appropriations, ways and means, and judiciary, together with two members appointed by the Speaker from the minority party.— *Supplement to the Code of Iowa, 1913,* Sec. 181.

[115] *The Des Moines Register,* January 13, 1917; *The Register and Leader* (Des Moines), January 6, 1911.

The Speaker in the national House has in recent years been shorn of the privilege of committee appointment, but the result has not been altogether satisfactory. A recent observer says it was done "upon the theory that the Speaker had become a great boss and that we could prevent the abuse of power by taking power from him" but he asserts that "we created in lieu of that a dozen or more bosses, not one of whom is in any sense responsible and no one of whom can be held responsible for any abuse."— Charles Merz in *The New Republic,* Vol. XI, p. 187.

The Speaker is not a law unto himself, however, in the matter of committee appointments. He must take into account any number of considerations. For, after all, as American legislative bodies are organized, the work is done and the enactment of legislation is largely controlled by committees. The Speaker, who is elected by a party or a faction must therefore name committees which will see that his policies and those of his supporters are made law. Consequently in making up the committee lists the Speaker must reward the men of his own faction who have secured his election. In 1900, thirty-two of the chairmanships in the House went to new members. Of this number, thirty-one were given to members of the faction of forty-three men who voted for Mr. Bowen for Speaker in the caucus. Some of the leaders of the Eaton party were given substantial recognition, but others failed to receive important positions. Especially are leading supporters or strong opponents favored with the chairmanships of the most important committees. Probably the most desirable committee chairmanships are those of judiciary, ways and means, and appropriations committees, although sometimes a member will prefer some other committee because of special legislation in which he is interested.[116]

The making up of committee lists is in itself no small task. There are nearly a thousand committee places to be awarded and when the number of new members is very

[116] *The Iowa State Register* (Weekly, Des Moines), January 19, 1900.

Frequently committee chairmanships are given to leaders of opposing factions for final support in the caucus. In the Tenth General Assembly, Bereman was a strong contender for the speakership against Jacob Butler, but gave way before the end and "was rewarded by what was then regarded as the best place in the gift of the speaker"—the chairmanship of the judiciary committee. In 1896, too, Speaker Gear gave Mr. Stone, his competitor for the gavel, "the chairmanship of the leading Committee of the House—that on Judiciary."—*Iowa State Weekly Register* (Des Moines), January 21, 1876; *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1898, p. 24.

great it means that there is a large number of vacancies to be filled.[117] The principle of seniority is largely followed, but it can not be made an absolute rule. Sometimes the old members are given the best committee appointments, sometimes the new members are thus rewarded.[118] Committees must of course be framed with a knowledge of what legislation they are to ratify. The roads committee of 1913 was undoubtedly framed for a purpose. In 1896 the Iowa Federation of Building and Loan Associations put forth every effort to have Byers elected Speaker, "and the result was an excellent building and loan committee in the House." In the last session of the General Assembly "the highways committee of the house was hand-picked by Pitt to facilitate abolishment of the highway commission." The committees on the suppression of intemperance have been notoriously packed in past years.

The dominant party has a majority on each standing committee, but it is customary to have a minority representation on each one. Thus it was regarded as a dangerous innovation when, in 1917, the committee on constitutional amendments was constituted completely of Republicans.[119]

The assignment of members to committees gives opportunity for spite work as well as the offering of rewards. When James Grant was Speaker of the House he put Gilman Folsom, a lawyer, as last man on the judiciary committee, placing over him two members who were younger and who were not lawyers. Folsom refused to serve and

[117] In 1907 there was one committee, of which none of the members of the previous session were returned to the legislature.— *The Register and Leader* (Des Moines), January 17, 1907.

[118] *The Iowa State Register* (Weekly, Des Moines), January 19, 1900; *The Register and Leader* (Des Moines), January 18, 1911, February 19, 24, 1913; *The Des Moines Register*, January 15, 1917; *House Journal*, 1897, p. 511; *The Iowa Magazine*, Vol. I, No. 4, p. 8.

[119] *The Des Moines Register*, January 17, 1917.

was very abusive of the Speaker throughout the session. J. B. Weaver, representative from Polk in the Thirty-seventh General Assembly, did not receive committee appointments commensurate with his ability.[120]

The candidates for Speaker usually begin making out their committee lists before the party caucus is called. It is such a large task that otherwise it can not be completed by the time the committees must be announced. In 1896 Byers waited until after his nomination by the caucus before he began making committee lists and as a result he was late in announcing them.[121]

The sifting committee is an important standing committee in which minions of the Speaker can render unusually valuable service. In 1917 the even division of the House made a partisan sifting committee impossible. An attempt to take the appointment of such a committee out of the Speaker's hands failed by the narrow margin of fifty-five to fifty-two and as finally composed it contained three members from each faction.[122]

The Speaker himself has at times been a member of a standing committee. In 1878 and 1884 he was made *ex officio* chairman of the committee on rules, and in 1909 he was a member of the same committee.[123]

Select committees are appointed by the Speaker throughout the session for numerous purposes. There is little chance here for partisanship as most of the work is routine

[120] *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1896, p. 33. See quotation from *The Iowa Falls Citizen* in *The Des Moines Register,* March 23, 1917.

[121] *The Iowa State Register* (Daily, Des Moines), January 6, 1894; *The Iowa State Register* (Weekly, Des Moines), January 7, 1898.

[122] *The Des Moines Register,* April 11, 1917; *House Journal,* 1917, pp. 1879, 1880.

[123] *House Journal,* 1878, p. 37, 1884, p. 18, 1909, p. 144.

or at least does not affect legislation. An interesting coincidence occurred, however, in the last session of the General Assembly. Speaker Pitt appointed a committee wholly of Republicans to draft a resolution endorsing Wilson — a Democratic President.[124]

An essential concomitant of the power of committee appointment is the power of referring bills to committees. In this particular, the Speaker has practically unquestioned authority. Each bill, when it is introduced is referred by him to some committee. Thus his control over legislation is made complete. What matters it if the committee on the suppression of intemperance is "dry" when the joint resolution providing for statewide prohibition is sent to the committee on constitutional amendments? To be sure, the committees in the Iowa House do not finally decide the fate of all bills. There is considerable discussion on the floor; but in many cases the action of committees determines the result. The sifting committee is especially powerful in this regard.

When the House goes into committee of the whole, the Speaker leaves the chair and appoints another to preside in his place. The Speaker must, however, remain on hand to take the chair whenever the committee decides to rise, or when a message from the Senate arrives. In the adjourned session of 1873 Representative Kasson acted regularly as chairman of the committee of the whole. In most sessions, however, the duty is passed around among the members. Although the committee of the whole has fallen into disuse, there was formerly a "custom-rule" that the chairman of the committee on rules, who was usually the caucus chairman of the majority party, was chosen to preside over the committee of the whole House.[125]

[124] *The Des Moines Register*, February 4, 1917.

[125] *House Rules*, 1917, Rule 68; *House Journal*, 1873, pp. 28, 50, 55, 147, 148, 149.

XII

THE SPEAKER: A MEMBER OF THE HOUSE

The member who is elected Speaker does not relinquish his rights as a member from his district. He has the right to vote, and indeed in all cases of a call of yeas and nays he must vote. In other cases he is not required to vote unless the House is equally divided or unless his vote, if given to the minority, would make the division equal. In calling the roll on votes the names of the members are called alphabetically, except that of "Mr. Speaker" which is called last. Frequently the Speaker's vote is necessary to break a tie; to create a tie; to complete a two-thirds vote, or to make a quorum. In the even division of the 1917 House the vote of the Speaker was often the decisive factor in the result. The Speaker has been known to explain his vote, a thing frequently done by members.[126]

Motions have been made by Iowa Speakers, resolutions and petitions have been offered, bills have been introduced, and places on select committees have been assigned them by the House. Not for many years has a Speaker in Iowa introduced a bill, but Speaker Atkinson in the Thirty-sixth General Assembly offered an amendment to a bill.[127]

Not infrequently has the Iowa Speaker exercised his right as a member to speak on measures from the floor of the House. James M. Morgan, when Speaker of the Seventh Legislative Assembly, made a speech forty or fifty minutes in length on the question of State boundaries. It was spoken of as "decidedly the ablest effort that has been made upon the subject of our constitution, admission into

[126] *House Rules,* 1917, Rules 7, 36; *The Des Moines Register,* March 10, 1917; *House Journal,* 1897, p. 283, 1915, p. 704, 1917, pp. 820, 821, 823, 825, 1323, 1999.

[127] *House Journal,* 1843–1844, pp. 33, 132, 203, 1848–1849, p. 219, 1880, p. 12, 1915, p. 1842, 1917, p. 281.

the Union, boundaries &c." James Grant, Speaker of the Fourth General Assembly, would upon occasion, take the floor for the purpose of answering criticisms and attacks of members. Jacob Butler, in the Tenth General Assembly, made frequent use of the floor in debate. "He would frequently resign the gavel to some other member, descend from the speaker's stand, walk about half way up the aisle, face about, and address himself to the subject with a vigor of voice, manner and gesticulation that left no doubt of his earnestness." He used the privilege to such an extent that objection was made. Upon one occasion after he had left the chair and made a violent speech against a bill, Addison Oliver of Monona County, who was opposed to the bill, but still more opposed to the Speaker's coming down on the floor to speak, protested that "Our Speaker is neglecting the duties of the position to which we elected him, and coming down on this floor to influence our votes; he jumps around among us like a stump-tailed bull in fly-time."[128] In the Twenty-ninth General Assembly, Speaker Eaton, during the debate on the bill providing for the teaching of music in the public schools of Iowa, left the chair after calling Speaker *pro tempore* Kendall to preside. Kendall recognized Eaton, addressing him as "the gentleman from Mitchell"; and Eaton spoke in favor of the bill. In the Thirty-seventh General Assembly, "Speaker Pitt, on at least two different occasions, addressed the House from the Speaker's station, which was entirely out of order and not in conformity with the House Rules."[129]

[128] *Iowa Capitol Reporter* (Iowa City), June 7, 1845; *Pioneer Lawmakers' Association of Iowa, Proceedings,* 1894, p. 45, 1896, p. 33, 1898, p. 23; *The Annals of Iowa* (First Series), Vol. X, p. 231.

[129] Taken from a letter from W. C. Ramsay, Chief Clerk of the Iowa House of Representatives in 1917, in possession of The State Historical Society of Iowa.

XIII

FORMALITIES AT THE CLOSE OF THE SESSION

Corresponding to the installation of the Speaker is the formality in connection with the ending of his services as such toward the close of the session. It has been customary from the very earliest times for resolutions of thanks to be tendered the Speaker for his fair and impartial conduct as presiding officer. While in the First Legislative Assembly there was a call for the yeas and nays on this resolution and three nays were recorded, it has ever since been unanimously adopted. Even the resolution thanking Jacob Butler for his impartial conduct was adopted unanimously. And yet this resolution is not a mere formality. In the realization that the last day of the session has arrived there is a certain sense of impending loss which brings the members closer together in their regard one for another, and the members feel that the Speaker has been as impartial as could be expected — that his rulings were not so partisan as they had seemed in the heat of the struggle.[130]

Sometimes little is done aside from the adoption of the resolution. But oftentimes speeches are made by several of the members. Occasionally the minority members offer a separate resolution of thanks. The Speaker is usually presented with the chair he has occupied during the session, and the gavel he has used in keeping order. Oftentimes other presents are given him. Formerly the Speaker, upon announcing that the House was adjourned *sine die,* delivered a short farewell speech to the House. Frequently the closing hours of a session are utilized for the purpose of relieving the nervous strain occasioned by the work of the last few days in a wild and reckless abandon — a "rough house". Books and papers, waste baskets and spittoons

[130] *House Journal,* 1838–1839, p. 285, 1841–1842, p. 279, 1864, p. 650.

are thrown at members' heads, attempts to speak are guffawed into silence, and animosities of the session are drowned in hilarity.[131]

XIV

THE SPEAKER PRO TEMPORE

Apparently the first two Speakers in the Legislative Assembly of Iowa were very attentive to their duties, for the journals of the first two sessions show no instances of a Speaker *pro tempore*.[132] True, in the Second Legislative Assembly a member took the chair for a few minutes one day in the last week of the session for the purpose of entertaining a resolution of thanks to Speaker Johnstone; but it was not until late in the Third Legislative Assembly that the necessity arose for a Speaker *pro tempore* to preside in the place of the Speaker. Thomas Cox was sick toward the end of the session and not able to attend to his duties regularly. On Tuesday, January 5, 1841, this record was entered in the *House Journal:* "In consequence of the absence of the Speaker, Mr. Lash was appointed Speaker *pro tempore.*" How he was chosen is not revealed. Later, on the afternoon of January 11th, Laurel Summers was appointed Speaker *pro tempore* on motion.[133]

[131] *House Journal,* 1858, p. 823, 1860, p. 664, 1864, p. 652, 1866, p. 737, 1882, p. 613, 1902, p. 1290, 1913, pp. 2778, 2779, 1915, p. 2110, 1917, p. 2092; *The Register and Leader* (Des Moines), April 10, 1907, April 10, 1909.

[132] Assuredly there was then, as there is now, a temporary chairman, spoken of in the *Journal* as Speaker *pro tem,* but more properly known as organization Speaker, who presided until the session Speaker was elected. In this section, for the purpose of clearness, the member who calls the House to order on the first day of the session will be termed temporary chairman; the member who is chosen to serve until a permanent Speaker is elected will be spoken of as organization Speaker; the term Speaker *pro tempore* being reserved for the permanent Speaker *pro tempore,* elected to serve throughout the session.

[133] *House Journal,* 1839–1840, p. 221, 1840–1841, pp. 227, 253.

For many years no Speaker *pro tempore* was elected to serve throughout the session as is done to-day. He was not selected until necessity arose, often toward the close of the session. Even then he was appointed or elected sometimes for the day only. Probably this fact was a result of the House rule which provided that "in case of the absence of the regular Speaker, the House may proceed to elect a Speaker *pro tem.*" Accordingly for several years the Speaker *pro tempore* was not elected until along in the session when the Speaker chanced to be absent. Since 1882, however, the practice has been to elect the Speaker *pro tempore* "for the session" very early, usually soon after the Speaker and other officers are selected.[134] An attempt to comply with the rule which provides that he may be elected "in case of the absence of the regular Speaker" is seen in the fact that it was customary for the Speaker to either absent himself or resign the chair during the election of Speaker *pro tempore.* Indeed, in one session the Speaker asked the House to so elect before he resigned the chair. The wording of this rule was changed in 1909 and now reads: "The house shall at its pleasure elect a speaker pro tempore." In the last three sessions the Speaker has retained the chair during the election of the Speaker *pro tempore.*[135]

At present the Speaker *pro tempore* is nominated by the party caucus at the same time as is the regular Speaker, and the formal election in the House is but a ratification of

[134] An exception is found in 1896, when the Speaker *pro tempore* was not elected until February 25th.— *House Journal,* 1896, p. 489, 1882, p. 40, 1884, p. 40, 1886, p. 41, 1900, p. 13, 1917, p. 10.

[135] *House Rules,* 1864, Rule 5, 1909, Rule 5, 1917, Rule 5; *House Journal,* 1843–1844, p. 89, 1850–1851, p. 305, 1858, p. 476, 1862, p. 53, 1874, p. 171, 1878, p. 65, 1880, p. 286, 1888, p. 17, 1892, pp. 20, 21, 1897, p. 30, 1898, p. 101, 1900, p. 13, 1902, p. 14, 1904, p. 9, 1906, p. 9, 1907, p. 9, 1913, p. 14, 1915, p. 12, 1917, p. 10.

this nomination. The election is usually unanimous: infrequently two candidates are presented. In the adjourned session of 1873 the Speaker *pro tempore* of the regular session served without question but at the opening of the extra session of 1897 the Speaker *pro tempore* of the regular session was reëlected. The installation of the Speaker *pro tempore* is practically identical with that of the Speaker.[136]

The Speaker *pro tempore* presides in place of the Speaker when that official is absent or resigns the chair and calls him to preside. The Speaker need not necessarily call the Speaker *pro tempore* to the chair when he vacates it; but he does so usually, unless it is when the House goes into committee of the whole.[137] "The acts of the speaker pro tempore shall have the same validity as those of the speaker." The Speaker *pro tempore* when in the chair may appoint committees; settle points of order; maintain order; in short —he may exercise all the prerogatives of the office, including the signing of bills. A resolution of thanks is customarily voted to the Speaker *pro tempore,* at the close of the session, for his fair and impartial treatment of members on the occasions when he presided. In 1917 such a resolution was offered in connection with the Speaker *pro tempore,* but was neglected in case of the Speaker himself.[138] Extra pay was given the Speaker *pro tempore* during the

[136] *House Journal,* 1897, p. 30, 1917, pp. 10, 11.

[137] *House Rules,* 1917, Rule 5.

While in 1917 seven members other than the Speaker *pro tempore* were called to the chair by Speaker Pitt, Speaker *pro tempore* McFarlane presided in the majority of cases.— See Index to *House Journal,* 1917.

[138] While the *House Journal* of 1917 shows no evidence of a formal resolution of thanks for the Speaker's services, J. B. Weaver, in presenting Mr. Pitt with a gold watch on behalf of the House, "expressed the appreciation of the house in the fairness of the speaker".— *The Des Moines Register,* April 14, 1917.

Territorial period for the time he served in the chair as Speaker, and the Speaker received no compensation for those days. At the close of the session of the Third Legislative Assembly, John B. Lash received extra compensation for six days service as Speaker *pro tempore* and Laurel Summers was paid according "to the time which he may serve", which was five days. Thomas Cox, the Speaker, was paid only for the time he served and not for the entire session as was the case later.[139]

The compensation, in addition to his salary as a member, which has been awarded the Speaker *pro tempore* since 1846 has been anything but regular. In the First General Assembly, the Speaker *pro tempore* was not paid at all for his services as such, but the organization Speaker was given four dollars for service as presiding officer during two days at the opening of the session. The Speaker received his usual double compensation — two dollars a day for the full length of the session, or eighty-eight days. In 1858, both the organization Speaker and the Speaker *pro tempore* were given pay for the days during which they served in the chair. The Speaker was paid for only the time after his election. In 1862, 1864, and 1866, the Speaker *pro tempore* was paid, but the organization Speaker was neglected. But in 1868 the organization Speaker was the only one to receive compensation, while in 1870 no extra pay was allowed any of the *pro tempore* Speakers. After the contest of 1874 the organization Speaker, who was also later elected Speaker *pro tempore,* received an extra stipend for his work as organization Speaker, but nothing for service in the chair

[139] *House Rules,* 1917, Rule 5; Reid's *Thomas Cox,* p. 174; *The Des Moines Register,* April 3, 1917; *House Journal,* 1840–1841, pp. 243, 272, 274, 276, 294, 1870, pp. 106, 111, 1909, p. 1513, 1913, p. 2250, 1915, pp. 1613, 1922, 1917, pp. 2172, 2173.

The Speaker *pro tempore* of the Thirty-seventh General Assembly signed no bills.

as Speaker *pro tempore*. In this session extra pay was given the Speaker for only the number of days remaining after his election.[140]

In 1890 the custom of paying the temporary chairman — the member from Polk County who calls the House to order — was instituted; probably because he served fifteen days before the organization Speaker was elected. The organization Speaker also served twenty-four days before Speaker Hamilton was elected, and received five dollars a day for the period. Contrary to the precedent of the session of 1874, Speaker Hamilton received extra pay for the full session. Speaker *pro tempore* Silas Wilson was not given extra pay. But the custom of paying both the temporary chairman and the organization Speaker continued down through the Twenty-eighth General Assembly. Since 1900 neither the temporary chairman, the organization Speaker, nor the Speaker *pro tempore* has received extra compensation. Thus it is seen that it was not customary for the Speaker *pro tempore* to receive extra pay even in early times, and that he has not been awarded this appreciation of service at all since 1866.[141]

The Speaker *pro tempore* retains all his rights as a representative from his district.[142] He is assigned to the stand-

[140] *Laws of Iowa*, 1846–1847, Ch. 124, pp. 183–187, 1858, Ch. 161, Sec. 23, p. 416, 1862, Ch. 130, p. 149, 1864, Ch. 104, p. 120, 1866, Ch. 94, Sec. 61, p. 101, 1874 (Private), Chs. 1, 75, pp. 2, 62.

In 1878, 1884, 1886, and 1888, the organization Speaker received extra pay for the two days he served as presiding officer.— *Laws of Iowa*, 1878, Ch. 170, p. 158, 1884, Ch. 129, p. 129, 1886, Ch. 167, p. 202, 1888, Ch. 110, p. 147.

[141] *Laws of Iowa*, 1866, Ch. 94, Sec. 61, p. 101, 1890, Ch. 65, p. 96, 1900, Ch. 149, p. 106.

True, J. G. Newbold, Speaker *pro tempore* in 1874, received sixty dollars for twelve days service in the chair, but it was for service as organization Speaker and not as Speaker *pro tempore*.— *Laws of Iowa*, 1874 (Private), Ch. 1.

[142] Sometimes his election to the position of Speaker *pro tempore* is due to a

Univ. of California

ing committees as is any other member, he votes, speaks on bills, offers amendments, and even introduces bills. Very infrequently is his position one of much power. In the session of 1890, the unsuccessful candidate for the speakership was made Speaker *pro tempore* and was accorded the privilege of making up the minority representation on the standing committees. Throughout the session he was the possessor of much more power as the leader of his party than the Speaker *pro tempore* usually obtains. While the prominence and power of the Speaker *pro tempore* are not comparable to that of the Speaker, he is compensated by the fact that he is not censured and criticised by the members as is the Speaker.[143]

Cyril B. Upham

The State Historical Society of Iowa
Iowa City

desire to eliminate the necessity of considering him as a candidate for chairman of an important committee.

[143] *The Des Moines Leader* (Weekly), February 27, 1890. See Index to *House Journal*, 1917.

YD 01685

395107

JK6378
U6

UNIVERSITY OF CALIFORNIA LIBRARY